

**THE U.S. FISH AND WILDLIFE  
SERVICE'S PLAN TO IMPLE-  
MENT A BAN ON THE  
COMMERCIAL TRADE IN  
ELEPHANT IVORY**

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**OVERSIGHT HEARING**

BEFORE THE

SUBCOMMITTEE ON FISHERIES, WILDLIFE,  
OCEANS AND INSULAR AFFAIRS

OF THE

COMMITTEE ON NATURAL RESOURCES  
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

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# **OVERSIGHT HEARING ON THE U.S. FISH AND WILDLIFE SERVICE'S PLAN TO IMPLEMENT A BAN ON THE COMMERCIAL TRADE IN ELEPHANT IVORY**

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**Tuesday, June 24, 2014**

**U.S. House of Representatives**

**Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs**

**Committee on Natural Resources**

**Washington, DC**

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The subcommittee met, pursuant to notice, at 2:00 p.m., in room 1324, Longworth House Office Building, Hon. John Fleming, [Chairman of the Subcommittee] presiding.

Present: Representatives Fleming, Young, Duncan, Southerland, McAllister; Lowenthal, Shea-Porter, and DeFazio (ex officio).

Also Present: Representative Daines.

Dr. FLEMING. The subcommittee will come to order.

The Chairman notes the presence of a quorum.

Good afternoon. Today the subcommittee will examine the Fish and Wildlife Service's decision to establish a ban on the sale of elephant ivory, to suspend sport hunting trophies from two African countries, and to arbitrarily limit the number of sport hunted trophies that Americans can legally import into the United States.

## **STATEMENT OF THE HON. JOHN FLEMING, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA**

Dr. FLEMING. It is clear that the rate of illegal killing that African elephants have experienced is tragic. So I was pleased to read the Convention on International Trade in Endangered Species of Wild Fauna and Flora, CITES, June 13th press release, that the number of elephants poached in 2013 decreased from the previous 2 years. According to the CITES Secretary General, "We are seeing better law enforcement and demand reduction efforts across multiple countries."

In order to stop this killing, the world community must work together to stop the flow of illegal ivory and to provide ivory producing nations the resources they need to effectively arrest, imprison or kill the heavily armed and organized poachers.

Based on a report to INTERPOL by Dr. Samuel Wasser of the University of Washington, who performs the DNA testing on seized ivory, we now know that the poachers are killing over 75 percent of all elephants in about three locations in Africa. According to Dr. Wasser, the same locations keep recurring over and over again as the places of origin of major ivory seizures, suggesting that the number of major hot spots may be far more limited than previously thought. The international law enforcement community must target those hot spots.

During the past 6 months, the Service has issued Director's Order 210, a revision to that order, and a promise to issue proposed final rules, which will establish, in the words of the Director, a "virtual ban" on the commercial sale of elephant ivory. Before establishing such a policy, it is usually important to understand the extent of the problem you are trying to fix. Regrettably in this case, the Service has indicated that they do not know how much elephant ivory is in the United States or, even more importantly, how much of it is illegal.

It is apparently difficult and expensive to determine the origin and the age of ivory and, therefore, the Service believes the easiest thing for them is to simply declare that virtually everything is contraband, and for good measure, the burden will be on the individual and not the Federal Government to prove that the ivory items qualify for these limited exceptions.

Today we will hear from some of the industries who may be adversely affected by the upcoming proposed final rules. Hopefully their suggestions and comments will be given serious consideration.

Finally, I am interested in hearing whether the Service is prepared to allow Americans to again import elephant trophies from Tanzania and Zimbabwe.

I also want to know why the Service would even consider establishing a limitation on American sport hunters when the African Elephant Conservation Act of 1988 clearly implies that no such limitation should be placed, and when even the Service admits that sport hunting is beneficial to the elephant conservation.

The simple truth is that if wildlife has no economic value, then there is little, if any, incentive for the people who live in that habitat to conserve or save them.

Some of the proceeds from legal elephant hunting are used to finance clinics, hospitals, roads, schools and other necessities of life in some of the poorest villages throughout Southern Africa.

[The prepared statement of Dr. Fleming follows:]

PREPARED STATEMENT OF THE HON. JOHN FLEMING, CHAIRMAN, SUBCOMMITTEE ON FISHERIES, WILDLIFE, OCEANS AND INSULAR AFFAIRS

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Dr. FLEMING. I am now pleased to recognize the Acting Ranking Member for any statement that he would like to make.

**STATEMENT OF THE HON. ALAN LOWENTHAL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. LOWENTHAL. Thank you, Mr. Chairman, and thank you to our witnesses for appearing today.

Mr. Chairman, in February of 2013, 1 month into the 113th Congress, the Ranking Member of this Committee wrote to you and to Chairman Hastings to request an oversight hearing on the wildlife poaching crisis in Africa. Unfortunately, that request was not fulfilled, and since then more than 35,000 elephants and 1,000 rhinoceroses have been killed illegally for their tusks and their horns.

Elephant ivory and rhino horn is bought. It is smuggled, and it is distributed by organized criminal enterprises, the same people who deal in heroin, assault weapons, and forced child labor. These crime syndicates are supplied with ivory by a new breed of formidable poachers who are equipped with night vision goggles, automatic weapons, and sometimes even helicopters. In some cases these poachers are simply out to make a few quick dollars, but in other instances more sinister forces are at work.

The Lord's Resistance Army in Central Africa and Darfur's Janjaweed are financing their violent insurgencies in part with ivory profits, and Al-Shabaab, an Al-Qaeda affiliated terrorist group that killed 67 persons last year in Nairobi and 48 people in another attack just last week in Kenya derive 40 percent of its revenue from wildlife trade.

Given these troubling facts, I was concerned to see that the purpose of this hearing appears to be to question one particular component of the Obama administration's strategy to deal with the poaching crisis. That is a proposal to tighten the ban on the import,

export and sale of elephant ivory in order to prevent nefarious actors from using loopholes in the current system.

While some legitimate concerns have been raised over the ability to sell and transport musical instruments and antiques containing ivory, one fact is inescapable. The United States is the second largest market for ivory, much of which is sold here illegally.

Earlier this month a Philadelphia art dealer was sentenced to 2½ years in prison in order to pay a \$150,000 fine for smuggling recently poached ivory and pawning it off as antique. This illicit activity has been going on for 9 years and was not an isolated incident.

The judge in the case correctly noted that poaching funds criminal gangs operating in Africa. While I know that the Fish and Wildlife Service has been and will continue working with stakeholders to allow limited trade in items containing ivory, we must be cautious. It is too easy under current rules to disguise recently poached ivory as antique, which in turn promotes the slaughter of more elephants.

I believe it is not too much to ask legitimate ivory dealers to take a few additional steps to verify that their products are bona fide antiques. We do want to be sure that this verification is thorough though, but the bottom line is that there is an international poaching epidemic that is devastating African wildlife, threatening the lives of wildlife rangers, and creating international security risks that most of us in the United States cannot even begin to understand.

I would like to address the temporary ban on importing sport hunted elephant trophies from Tanzania and Zimbabwe. Based on population data and documented cases of the illegal killing of elephants, it is clear that both of these countries have been deeply afflicted by the escalating poaching epidemic. While nations that have populations of elephants are ultimately responsible themselves for their own management, the United States cannot legally allow the importation of elephant trophies in the absence of clear evidence that the hunting contributes to the survival of the species.

Given the scale of the current poaching crises and the uncertainty of what happens to the money that hunters pay host countries, additional killing of elephants in Tanzania and Zimbabwe is only adding to the body count.

I applaud President Obama and his administration for taking decisive steps to combat wildlife traffic, and I look forward to hearing from our witnesses today about how they can protect endangered African elephants and rhinos and stem the tide of poaching that is now reaching a crisis level.

Thank you, and I yield back.

Dr. FLEMING. The gentleman yields back.

And I believe Mr. DeFazio, the Ranking Member of the whole Committee, has an opening statement.

**STATEMENT OF THE HON. PETER DEFAZIO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON**

Mr. DEFAZIO. Thank you, Mr. Chairman.

Mr. Chairman, today we will get a bit of history, which was new to me and would have a former member talk about that, about



some successful bipartisan effort back in 1988, 1989, the last time we had a threat, which actually pales in terms of today's threat to the survival of elephants in the wild in Africa.

And after the Congress came together on a bipartisan basis back then, the price of ivory tanked to about 5 bucks a pound. We made it like blood diamonds for a while, and now it is more than 200 times that. It is about 225 times that.

So some of these terrorist groups, and of course, there was the incredible slaughter of 300 elephants in 1 day last year with poisoning, but you know, one elephant can finance a lot of ammunition for them and other weapons and things for a not particularly long period of time.

There has to be major action taken by the United States and major action to motivate other countries to take action. This rule, you know, it is an extraordinarily broad rule. They are still refining parts of it, and how are you going to tell what is legitimate and what is not? It is very problematic.

We are going to have to go after the middle men, the source, the other major consumers, but we are going to have to set an example here.

And I just have one little demonstration on how difficult this all is. This gentleman, if I might call him that, although he currently has a number, he is a Federal prisoner, a guy named Victor Gordon, an antique dealer, of course, very legitimate guy, was sentenced to 2½ years in prison and a \$150,000 fine, and they found in his collection one ton of antique/not antique ivory, and this has been dated, and this all is quite recent. But it has been made to look a bit older.

So this is how difficult the problem is. I mean, I am hopeful some day we will have a very quick kind of test with something, a mass spectrometer or something and you can be able to bring in your ivory, and they will say, "Oh, yeah, that is fine. That is old enough," and we do not have to have arbitrary standards.

But this is the problem we are fighting, people like the current guest of the Federal Government, Mr. Gordon. Hopefully that sets an example to others who would traffic similarly in the United States, but we also have major problems overseas with corrupt governments. There is a lot of money in this and a lot of corruption follows that, in addition to the violence. We might hear a little bit about that today.

And I am hoping that steps beyond what we are discussing today, which needs to be further discussed and refined, can be taken by the United States which will go to trade sanctions, meaningful trade sanctions against countries who knowingly, like China, traffic in these materials, and we have to hit them hard if we are going to get their attention.

And I think the President has the authority under the Pelly Act to do that, and I am going to be organizing a letter to ask him to use that authority, but I am also looking at legislation to amend the Driftnet Act to also give more authority to use trade sanctions.

Quite some number of years ago I was involved with some illegal whaling by Norway, and I was pretty junior then, but I introduced a bill to sanction them, and it got their attention very quickly. If we could put together something bipartisan, we can get the atten-

tion, I believe, of some of these countries that are facilitating the absolute slaughter of elephants.

We are at a point if this goes on for another 4 or 5 years, we are going to be talking about captive breeding programs for elephants, in addition to what's also—there's also environmental depredation, illegal logging that is affecting elephants, but the slaughter right now is the Number-one issue we have to deal with, and I hope we can find a way to come together on that today.

Thank you, Mr. Chairman.

Dr. FLEMING. The gentleman yields back. Next I would like to ask unanimous consent that the gentleman from Montana, Mr. Daines, be allowed to sit on the dais.

Hearing no objections, so ordered. We will now hear from our first panel of witnesses, which includes Mr. Steve Robert G. Dreher. Is that the correct pronunciation, Dreher? Did I say that right? OK. Thank you. Associate Director, U.S. Fish and Wildlife Service, and Mr. Hilary Tendaupenyu. Am I close? OK. Principal Ecologist, Zimbabwe Parks and Wildlife Management Authority.

Your written testimony will appear in full in the hearing record. So I ask that you keep your oral statements to 5 minutes as outlined in our invitation letter to you under the Committee Rule 4(a).

Our microphones are not automatic. So please press the button. Make sure the tip of the microphone is close by because it does not pick up well, and the lights are, of course, very straightforward. You will be under a green light for the first 4 minutes, yellow light the last minute, and when it turns red, if you have not finished already, please quickly come to a conclusion.

Mr. Dreher, you are now recognized for 5 minutes to present testimony on behalf of the U.S. Fish and Wildlife Service.

**STATEMENT OF ROBERT G. DREHER, ASSOCIATE DIRECTOR,  
U.S. FISH AND WILDLIFE SERVICE**

Mr. DREHER. Good afternoon, Chairman Fleming and Ranking Member Lowenthal, Ranking Member DeFazio, and members of the subcommittee. Thank you for giving me the opportunity to discuss the current wildlife trafficking crisis and its epicenter, the ongoing mass slaughter of elephants in Africa.

I cannot overstate the urgency of this crisis. If not halted, it threatens to eliminate wild African populations of elephants within the next decade. The unprecedented nature of this threat requires us to act together with the international community to do everything we can both on the ground in Africa and in domestic and international markets to reduce the demand for ivory that fuels the killing.

Spurred by President Obama's executive order, the national strategy for combatting wildlife trafficking leverages resources and expertise of the Federal Government to crack down on poaching and trafficking that is devastating elephants and many other irreplaceable wildlife species.

As part of this multi-pronged approach, we have taken steps to increase our ability to disrupt and destroy trafficking networks and to build the capacity of range states to protect elephant populations.

And here at home, after careful consideration, we are using the full extent of our legal authority to implement a near complete ban on commercial trade in elephant ivory. This is not just an African or Asian problem. The United States is a major consumer of ivory and continued commercial trade hampers our ability to identify and prosecute the criminals who are trafficking in illegal ivory.

Ongoing criminal investigations and anti-smuggling efforts indicate that significant amounts of illegally imported elephant ivory are entering the domestic market, and those cases demonstrate that the legal ivory trade serves as a cover for illegal trade.

The basic fact is that it is extremely difficult to differentiate legally acquired ivory from ivory derived from elephant poaching. In a recent case that the members of the committee have just referred to, *United States v. Victor Gordon*, our investigation documented the large-scale smuggling of newly acquired ivory from West Africa disguised deliberately to pass as old ivory and antique tribal carvings, resulting in the seizure of over one ton of elephant ivory.

Victor Gordon, the owner of an African art and antique store in Philadelphia pleaded guilty to smuggling elephant ivory from Africa via JFK Airport, ivory that he then sold to buyers as antiques.

The first step we took to restrict commercial trade in elephant ivory was the issuance of Director's Order 210, which reaffirmed the African Elephant Conservation Act's moratorium and the Endangered Species Act definition of "antique."

Following the issuance of the Director's Order, we met with a wide array of stakeholders including individuals and groups representing antique dealers, auction houses, musical instrument makers, museums and orchestras. As a result of these constructive meetings, we revised the Director's Order to address several of their concerns, allowing a broader class of non-commercial items to be imported into the United States and clarifying how we intend to enforce the Endangered Species Act definition of "antique" while still maintaining our goal of ensuring that the United States is not contributing to the poaching of elephants and illegal trade in ivory.

We also improved our ability to protect elephants, rhinos and other CITES listed wildlife by publishing a final rule revising our CITES regulations. Under this rule, which becomes effective on June 26, items such as elephant ivory imported for non-commercial purposes may not subsequently be sold within the United States.

For African elephant ivory imported prior to 1990 when the African elephant was listed in CITES Appendix 1 and international commercial trade was largely prohibited, the burden is now on the seller to demonstrate that this ivory was imported prior to this date.

We also plan to revise the Endangered Species Act special rule for the African elephant. This action, which will include proposed limitations on the interstate sale of African elephant ivory will also include a public comment period. Using our authority under the Endangered Species Act, we will also propose limiting the number of elephant sport hunted trophies that an individual can import to two per hunter per year.

The combined result of these administrative actions would be the elimination of most commercial trade in elephant ivory in the

United States, with certain narrow exceptions. Taking these measures will affirm and enhance United States leadership and support diplomatic efforts to encourage consumer nations to take additional actions to combat illegal trade.

The United States is one of the world's major consumers of illicit wildlife products, and we must lead by example. I look forward to working with your subcommittee to address this urgent issue. Thank you.

[The prepared statement of Mr. Dreher follows:]

PREPARED STATEMENT OF ROBERT DREHER, ASSOCIATE DIRECTOR, U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

#### INTRODUCTION

Good afternoon Chairman Fleming, Ranking Member Sablan, and members of the subcommittee. I am Robert Dreher, Associate Director of the U.S. Fish and Wildlife Service (Service), within the Department of the Interior (Department). I appreciate the opportunity to testify before you today to discuss the current wildlife trafficking crisis, which includes an escalating mass slaughter of elephants in Africa. If it is not stopped, the world may well lose wild populations of African elephants forever.

To combat wildlife trafficking, the Service is working toward implementing a near complete ban on commercial trade in elephant ivory. Given the escalating threats to African elephants, we believe that a near complete ban on commercial elephant ivory trade is the best way to ensure that U.S. domestic markets do not contribute to the decline of this species in the wild. The United States is among the world's largest consumers of wildlife, both legal and illegal. It is difficult to determine the exact market value of black market items such as illegally trafficked wildlife goods; however, we know that the United States remains a significant ivory market, and we must continue to be vigilant to prevent this from masking the illegal ivory trade. By stopping illegal ivory trade at home and assisting elephant range states and consumer countries around the world, we can have a significant positive impact on elephant conservation. These actions will affirm and enhance U.S. leadership and support diplomatic efforts to encourage additional efforts to combat illegal ivory trade in consumer nations.

#### THE POACHING CRISIS AND ILLEGAL IVORY TRADE

African elephants once numbered in the millions throughout Africa, but by 1990, uncontrolled hunting for their ivory tusks had driven the wild population to fewer than 500,000. This rapid population decline led to a ban on international ivory sales and trade in 1990 through the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Following the 1990 ban, populations of African elephants began to recover in some countries. However, a recent resurgence of elephant poaching in Africa, is again threatening this iconic species. Populations of both savannah and forest elephants have dropped precipitously, and poaching occurs across all of Africa. Africa's elephants are being slaughtered for ivory at rates not seen in decades due to increased demand for ivory in consumer countries. Some of this increase in the demand for ivory is attributed to improved economic conditions in traditional ivory markets such as China and other parts of East and Southeast Asia. In these markets, ivory carvings rate high as a status symbol for economic elites, and as more Asian consumers have the financial resources to purchase ivory, the demand for ivory is significantly increasing. Continued poaching at current rates threatens the existence of elephants in the wild.

Wildlife trafficking was once a local or regional problem, and has now become a global crisis, as increasingly sophisticated, violent and ruthless criminal organizations have branched into wildlife trafficking. What was once predominantly a crime of opportunity committed by individuals or small groups is now committed by international criminal cartels that are well structured and highly organized. These cartels are capable of illegally moving orders of magnitude more in wildlife and wildlife products. This lucrative business has been tied to drug and cartels, militant groups, and human trafficking organizations, all of which are destabilizing influences in many African nations. These organized criminal enterprises are a growing threat to wildlife, the world's economy and global security. There is also a terrible human cost associated with these losses. For example, during the past few years, hundreds of park rangers have been killed in the line of duty in Africa.

The United States continues to play a major role as a significant consumer and transit country for illegally traded elephant ivory, and we must be part of the solution. At this crucial moment, the United States has the opportunity to exercise leadership on this urgent issue and encourage other countries to step up efforts to combat wildlife trafficking.

#### U.S. FISH AND WILDLIFE SERVICE'S ROLE IN ADDRESSING WILDLIFE TRAFFICKING

The Service provides key leadership and capacity in addressing wildlife trafficking. For decades, we have worked in countries across the globe to conserve imperiled wildlife and address illicit wildlife trade through our Office of Law Enforcement and International Affairs program. We have a four-tiered approach to combat wildlife trafficking, including: law enforcement; technical assistance; CITES; and demand reduction.

##### *Law Enforcement to Target and Stop Illicit Trade*

The Service is the primary Federal agency responsible for enforcing U.S. laws and treaties that address international wildlife trafficking and protect U.S. and foreign species from unsustainable trade. Working with limited budgets and a special agent workforce of 205 agents which has not grown since the late 1970s, the Service has disrupted large-scale trafficking in contraband wildlife "commodities" that range from elephant ivory and rhino horn to sturgeon caviar and sea turtle skin and shell. Service special agents use both overt and clandestine investigative techniques to detect and document international smuggling and crimes involving the unlawful exploitation of protected native and foreign species in interstate commerce.

Since the mid-1970s, the Service has deployed a force of uniformed wildlife inspectors at major ports of entry across the Nation to check inbound and outbound shipments for wildlife. These 124 officers ensure that wildlife trade complies with the CITES treaty and U.S. laws. They also conduct proactive inspections of air cargo warehouses, ocean containers, international mail packages, and international passenger flights looking for smuggled wildlife.

The Service operates the world's first and only full-service wildlife forensics laboratory—a lab that is globally recognized as having created the science of wildlife forensics. Guidance from the lab, for example, provided an easy way for officers in the field to distinguish elephant ivory from other types of ivory, such as mammoth or walrus ivory. The Service continues to support a fiscal year 2015 budget request to expand research at our lab to make it easier to determine the origin or geographic source of illicit wildlife material, particularly for species threatened by current patterns of illegal trade. Such work enhances our ability to provide law enforcement and justice officials with evidence to more effectively prosecute wildlife crime.

Service enforcement officers and forensic scientists have provided specialized training to wildlife enforcement counterparts in more than 65 different countries since 2000. These capacity-building efforts have included teaching criminal investigation skills to wildlife officers from sub-Saharan Africa at the International Law Enforcement Academy in Botswana on a yearly or twice-yearly basis.

Wildlife trafficking is increasingly a transnational crime involving illicit activities in two or more countries and often two or more global regions. Cooperation between nations is essential to combating this crime. With assistance from the State Department and USAID, we have created the first program for stationing Service law enforcement special agents at U.S. embassies as international attachés to coordinate investigations of wildlife trafficking and support wildlife enforcement capacity building. The first attaché began work in March 2014 in Bangkok, Thailand. We anticipate placing four additional attachés in key regions by the end of fiscal year 2014, including Asia, South America, and two in Africa.

One example of the Service's law enforcement efforts in combating wildlife trafficking is Operation Crash. This Operation is a continuing, multi-district investigation into all aspects of the illicit trade in rhino horns led by the Service, Office of Law Enforcement's Special Investigations Unit and the U.S. Department of Justice. More than 200 Federal, State, and local law enforcement officers in 40 States and 10 foreign countries have assisted the investigators and prosecutors working on Operation Crash. Since February 2012, 21 individuals have been apprehended and charged with numerous offenses such as conspiracy, smuggling, money laundering, tax evasion, and making false documents as well as violations of the Endangered Species Act (ESA) and Lacey Act. Defendants have been sentenced to significant terms of imprisonment and the forfeiture of millions of dollars in cash, gold bars, rhino horn, and luxury vehicles and Rolex watches. In *United States v. Zhifei Li*, the ring-leader of a smuggling scheme was responsible for smuggling more than \$4.5 million worth of illegal wildlife and wildlife products, including 30 rhinoceros

horns and carved objects made from rhinoceros horn or elephant ivory, and was sentenced to 70 months in prison and \$3.5 million forfeiture.

Another example is a recent case, *U.S. v. Victor Gordon*, where our investigation documented the large-scale smuggling of newly acquired ivory from West Africa disguised to “pass” as old ivory and antique tribal carvings and resulted in the seizure of over one ton of elephant ivory. U.S. businessman Victor Gordon, the owner of an African art and antiques store in Philadelphia, pleaded guilty to smuggling elephant ivory from Africa via JFK—ivory that he then sold to buyers as “antiques.” On June 4, 2014, he was sentenced to 30 months’ imprisonment, to be followed by 2 years of supervised release. As part of that sentence, the court ordered Gordon to pay a fine of \$7,500 and to forfeit \$150,000, along with the approximately one ton of elephant ivory that was seized by agents from Gordon’s Philadelphia store in April 2009.

#### *Technical Assistance and Grants to Build In-Country Capacity*

The Service has a long history of providing technical assistance and grants to build in-country capacity for conservation of wildlife species. Through the Multinational Species Conservation Funds, the Service provides funding in the form of grants or cooperative agreements to projects benefiting African and Asian elephants, rhinos, tigers, great apes, and marine turtles in their natural habitats. A substantial portion of the funding awarded through the Multinational Species Conservation Funds is invested in projects aimed at combating wildlife crime through improved law enforcement, anti-poaching patrols, demand reduction, and economic alternatives. Several of the Service’s global and regional programs, including Africa, Asia, and the Western Hemisphere, also directly address wildlife conservation efforts, including combating wildlife crime.

Through the Wildlife Without Borders—Africa Program, a technical and financial partnership with USAID, the Service has supported the development of innovative methods to conserve wildlife and fight wildlife crime in Central Africa, including improvement of investigations, arrest operations, and legal follow-up. A number of projects are geared toward building in-country capacity and providing technical assistance to reduce the poaching of African elephants. The Service is committed to working with in-country partners to halt and reverse this trend, most notably in Gabon, where two-thirds of the forest elephants in Minkebe National Park have been killed since 2004, a loss of more than 11,000 elephants.

#### *CITES and Illegal Wildlife Trade*

CITES, an international agreement among 180 member nations, including the United States, is designed to control and regulate global trade in certain wild animals and plants that are or may become threatened with extinction due to international trade. As the first nation to ratify CITES, the United States has consistently been a leader in combating wildlife trafficking and protecting natural resources. Without regulation, international trade can deplete wild populations, leading to extinction. The goal of CITES is to facilitate legal, biologically sustainable trade, whenever possible. But in some cases, no level of commercial trade can be sustainably supported.

Though a longstanding priority for CITES Parties, the focus on combating elephant poaching and illegal ivory trade is more intense than ever before. In March 2013, at the most recent meeting of the Conference of the Parties (CoP16), eight countries—China, Kenya, Malaysia, the Philippines, Tanzania, Thailand, Uganda, and Vietnam—that were identified as significant source, transit, or destination points for illegal ivory trade agreed to develop time-bound action plans to actively address illegal ivory trade.

Also at CoP16, the CITES Parties recognized the importance of addressing the entire crime chain by adopting several decisions to ensure that modern forensic and investigative techniques are applied to the illegal trade in ivory. The CITES Parties agreed to provide more effective control over domestic ivory markets and government-held stockpiles, and to promote public awareness campaigns, including supply and demand-reduction strategies. The decisions agreed upon at CoP16 to address the elephant poaching crisis were a significant step in the right direction. The United States played a major role in the development of these decisions and actions, and is committed to playing a significant role in their implementation, including ensuring that countries are held accountable for failure to take meaningful actions to curb elephant poaching and illegal ivory trade.

#### *Reducing Consumer Demand for Illegal Wildlife Products*

Most of the international conservation work funded by the Service has focused on on-the-ground protection of habitat and wildlife, including enforcement efforts, with the Service providing approximately \$10 million annually to enhance and support

wildlife conservation throughout Africa and Asia. In addition, the Service supports government and non-government partners with public awareness and demand-reduction campaigns in Asian consumer nations.

Over the years, the Service has also worked to educate and inform U.S. consumers about the role they play in wildlife trafficking and the impacts of this illegal activity on animal and plant species around the world. These efforts have ranged from partnering with nongovernmental organizations on a long-running “Buyer Beware” campaign and commissioning our law enforcement officers to present outreach programs on wildlife trafficking at the local, State, and national levels, to using airport billboards and social media to engage the public on this issue.

Using our extensive network and experience, we are developing a strategy for the Service’s role in addressing consumer demand. This includes working with the private sector and governments in key consumer countries, including the United States, to build public awareness about the impacts of illegal trade on wildlife and the potential penalties for engaging in such activities. The Service is also taking other actions to encourage attitudinal and behavioral shifts, all leading to measurable reductions in demand for illegal wildlife products.

#### U.S. IVORY CRUSH

As part of our effort to combat illegal ivory trafficking, on November 14, 2013, the United States destroyed its 6-ton stock of confiscated elephant ivory, sending a clear message that we will not tolerate wildlife crime that threatens to wipe out the African elephant and a host of other species around the globe. The destruction of this ivory, which took place near the Service’s National Wildlife Property Repository on the Rocky Mountain Arsenal National Wildlife Refuge near Denver, Colorado, was witnessed by representatives of African nations and other countries, dozens of leading conservationists, and international media representatives.

This ivory crush sparked a new sense of possibility and collaboration—that we can work together effectively to halt this crisis before it is too late. This action signaled the United States’ commitment to combat wildlife trafficking, and was carried out, in part, to encourage other nations to do the same. Following the U.S. ivory crush, a number of other governments destroyed most of their stockpiles of seized ivory, including China, France, Chad, Belgium, and Hong Kong. We now are in a much better position to work with the international community to push for a reduction of ivory stockpiles worldwide, and crack down on poaching and illegal trade.

#### PRESIDENT’S EXECUTIVE ORDER ON WILDLIFE TRAFFICKING

The Administration recognized that if illicit wildlife trade continues on its current trajectory some of the world’s most treasured animals could be threatened with extinction. In response to this crisis, on July 1, 2013, President Obama issued Executive Order 13648 to enhance coordination of U.S. Government efforts to combat wildlife trafficking and assist foreign governments with capacity building.

The Executive Order establishes a Presidential Task Force on Wildlife Trafficking charged with developing and implementing a National Strategy for Combating Wildlife Trafficking. The Task Force is co-chaired by the Department of the Interior, Department of Justice, and Department of State, and includes a dozen other departments and agencies. Drawing on resources and expertise from across the U.S. Government, we are working to identify new approaches to crack down on poaching and wildlife trafficking and to more efficiently coordinate our enforcement efforts with interagency and international partners. The Executive Order also establishes an Advisory Council on Wildlife Trafficking comprised of individuals with relevant expertise from outside the Government to make recommendations to the Task Force.

#### NATIONAL STRATEGY FOR COMBATING WILDLIFE TRAFFICKING

In accordance with the Executive Order, the Presidential Task Force produced a National Strategy for Combating Wildlife Trafficking. The National Strategy establishes strategic priorities and guiding principles to help focus and strengthen the U.S. Government’s efforts to combat wildlife trafficking, and to position the United States to exercise leadership on this urgent issue. The strategic priorities include: (1) strengthening the enforcement of laws that protect wildlife; (2) reducing demand for illegal wildlife and wildlife products; and (3) working in partnership with governments, local communities, non-governmental organizations, the private sector, and others to enhance global commitment to combat wildlife trafficking.

The Service is integrally involved in all of these priorities, but I would like to highlight a few areas of particular importance in our efforts to stem illegal wildlife trade.

## ADMINISTRATIVE ACTIONS TO ADDRESS THE CURRENT POACHING CRISIS

The United States has several laws and regulations in place that can help to address the poaching crisis. African elephants are listed as threatened under the ESA and are also protected under the African Elephant Conservation Act (AECA). Nations across the world regulate trade in this species under CITES. Under these U.S. laws, it is generally illegal to:

- Import African elephant ivory.
- Export it without CITES documents.
- Buy or sell unlawfully imported African elephant ivory in interstate commerce.

Asian elephants are listed as endangered under the ESA. Import, export, and interstate commerce in ivory and other parts and products are generally prohibited.

Though there is some ivory trade in the United States involving antiques and legally acquired ivory imported prior to the 1989 AECA ivory import moratorium, we believe a substantial amount of elephant ivory is illegally imported and enters the domestic market. It is extremely difficult to differentiate legally acquired ivory from ivory derived from elephant poaching. Our criminal investigations and anti-smuggling efforts have clearly shown that legal ivory trade can serve as a cover for illegal trade. In addition to the Victor Gordon case noted above, Service and State wildlife officers seized more than two million dollars-worth of illegal elephant ivory from two New York City retail stores in 2012.

Following the release of the National Strategy, the Service has taken steps toward implementing a near complete ban on commercial trade in elephant ivory. The first of these steps was the issuance of Director's Order 210, which re-affirmed enforcement of the AECA moratorium and addressed how the Service would enforce importation under the ESA antiques provision.

Following the issuance of Director's Order 210 on February 25, the Service met with a wide array of stakeholders, including individuals and groups representing antiques dealers, auction houses, musical instrument makers, museums, and orchestras. As a result of these constructive meetings, we revised the Director's Order to address several of their concerns, allowing a broader class of noncommercial items to be imported into the United States and clarifying how we intend to enforce the ESA antiques provision, while still maintaining our goal of ensuring that the United States is not contributing to poaching of elephants and illegal trade in ivory.

In addition to the provisions in the Director's Order, we improved our ability to protect elephants, rhinos, and other CITES-listed wildlife by publishing a final rule revising our CITES regulations, including "use after import" provisions that limit sale of elephant ivory within the United States. Under this new rule, which becomes effective on June 26, 2014, items such as elephant ivory imported for noncommercial purposes may not subsequently be sold within the United States. For African elephant ivory imported prior to 1990, when the African elephant was listed in CITES Appendix I and commercial international trade was generally prohibited, the burden is now on the seller to demonstrate that this ivory was imported prior to 1990. These regulations were previously published as a proposed rule with opportunity for public comment.

In the coming months, we will also publish a proposed rule to revise the ESA special rule for the African elephant (50 CFR 17.40(e)). This action, which will include proposed limitations on the interstate sale of African elephant ivory, will also include a public comment period. Using our authority under the ESA, we will also propose limiting the number of elephant sport-hunted trophies that an individual can import to two per hunter per year.

The combined result of these administrative actions would be the elimination of most commercial trade (import, export, and interstate and intrastate sale) in elephant ivory, with certain narrow exceptions. Taking these measures will establish U.S. leadership and support diplomatic efforts to encourage additional efforts to combat illegal trade in consumer nations. The United States is one of the world's major consumers of illicit wildlife products, and we must lead by example. These actions are also consistent with recent CITES recommendations adopted at CoP16.

#### *Assess and Strengthen Legal Authorities*

While the Service is pursuing administrative actions to address the poaching crisis, the National Strategy also calls on Congress to consider legislation to recognize wildlife trafficking crimes as predicate offenses for money laundering. This action would be invaluable to the Service's law enforcement efforts because it would place wildlife trafficking on an equal footing with other serious crimes. It would also provide our special agents with the same tools to investigate serious crimes that other



Federal law enforcement agencies have. This legislative change would help take the profit out of the illegal wildlife trade and end the days of wildlife trafficking being a low-risk, high-profit crime. Strong penalties provide a deterrent and assist the U.S. Government in unraveling complex conspiracies and combating trafficking. Offenders facing significant penalties are more likely to become key cooperating defendants than those facing a light penalty.

*Save the Vanishing Species Semipostal Stamp*

The National Strategy recommends continuing the sale of the Save the Vanishing Species Semipostal stamp. This stamp, which went on sale on September 20, 2011, has been providing vital support for the Service's efforts to fight global wildlife trafficking and poaching. More than 25.5 million stamps have been purchased by the American public online and at their local post offices, generating more than \$2.5 million for conservation. This money has been used to support 47 projects in 31 countries in Africa, Asia, and Latin America to conserve elephants, rhinos, tigers, marine turtles, and great apes. These funds have been leveraged by an additional \$3.6 million in matching contributions—making the stamp a key part of the United States' efforts to protect wildlife and address the ongoing worldwide epidemic of poaching and wildlife trafficking.

The continued sale of the Save the Vanishing Species Semipostal stamp is authorized by legislation enacted by Congress. However, the requirement to sell the stamp for at least 2 years has expired and the Postal Service has discontinued the sale of the stamp at this time. Continuing to sell the stamp would extend an opportunity for the American public to support wildlife conservation abroad by directly contributing money to help rhinos, tigers, elephants, sea turtles, and great apes.

CONCLUSION

I would like to thank the subcommittee for your support of our efforts to combat wildlife trafficking. I want to leave you by asking you to consider this moment in history—and the choice we must all make as human beings and global citizens. We have a chance here, and now, to build on this National Strategy to ensure a secure future for elephants, rhinos, and hundreds of other wild plant and animal species. How will we answer when our grandchildren ask why some of these magnificent creatures no longer exist in the wild? I want to be able to tell them that the Service did everything we could to keep these amazing species from vanishing from our planet. I look forward to working with your subcommittee to make it a reality.

Thank you for the opportunity to present testimony today. I would be pleased to answer any questions that you may have.

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Dr. FLEMING. Thank you, Mr. Dreher.

Next the Chair recognizes Mr. Tendaupenyu for 5 minutes.

**STATEMENT OF ITAI HILARY TENDAUPENYU, PRINCIPAL ECOLOGIST, ZIMBABWE PARKS AND WILDLIFE MANAGEMENT AUTHORITY**

Mr. TENDAUPENYU. Thank you, Mr. Chairman and your committee, for affording me this opportunity to testify before this subcommittee.

I am a principal ecologist here on behalf of the Director General of the Zimbabwe Parks and Wildlife Management Authority, an organization mandated to manage Zimbabwe's wildlife heritage.

The suspension of April 4, 2014 by the U.S. Fish and Wildlife Services of all imports of African elephant trophies taken in Zimbabwe during the 2014 hunting season came without prior notice or engagement with the Government of Zimbabwe and did not have any scientific basis.

The Service alluded to the fact that legal well regulated sport hunting as part of a sound management program can benefit the conservation of listed species by providing incentives to local communities and to conserve the species by putting much needed rev-

enue back into conservation. The suspension acts as a contradiction to this.

To establish the status of African elephant in Zimbabwe, systematic aerial surveys, waterfall and road counts, and ranger-based data collection and monitoring are used. In the four major elephant geographical ranges, the Northwest Matabeleland has an estimated population of 50,000 elephants; the Mid-Zambezi, 30,000; Sebungwe, 15,000; and the South-East Lowveld, 12,500 according to a 2013 aerial survey. The surveys indicate a stable increasing elephant population.

The ban has huge negative, social and economic impacts in Zimbabwe. Sixty-seven percent of elephant quota goes to local communities, and the private sector, 50 percent of which goes directly to communities. The ban will result in the loss of income to local communities who are the most vulnerable groups.

The collapse of the hunting industry will result in the loss of income and employment to supporting services and will also result in an increased human elephant conflict due to reduced elephant ranges. Reduced funding for poaching efforts will result in increased poaching, hence increased decimation of all live populations.

ZimParks manages 50,000 square kilometers, approximately 13 percent of Zimbabwe, and has a statutory obligation to manage wildlife conservation beyond state protected areas. It receives no fiscal funding, and all of its revenue is generated from sustainable conservation activities and through limited donor support. The hunting industry contributes 30 percent of annual revenue generated and is used to fund conservation efforts.

We should note that hunters on the ground also act as a first line of defense against poaching, through ground intelligence and surveillance, hence, act as a deterrent to poaching.

The ban will affect resource protection activities, problem animal management, fire management, law enforcement, and environmental education and awareness campaigns.

The Communal Area Management Program for Indigenous Resources, CAMPFIRE, is a brainchild of ZimParks and is a world renowned success story. It is a national strategy established with the primary purpose of helping rural communities to sustainably manage the natural and cultural resources, derived income from the resource, and determine how the income will be utilized.

Fifty-eight out of 60 districts in Zimbabwe participate in the program. Ninety percent of CAMPFIRE revenue comes from sport hunting, 70 percent of which is from elephant hunting.

CAMPFIRE income is used for community projects in the fields of education, health, and other livelihood support services in rural areas, and meat from sport hunting also benefits rural communities.

The benefits from sustainable use of wildlife resources have served to increase the confidence of communities in wildlife management, thereby improving tolerance and survival of wildlife species. The guidelines for CAMPFIRE by the Government of Zimbabwe emphasize that communities must at all times receive the highest benefits.

Once elephants are no longer economically important to local communities, those communities will have no incentive to tolerate elephants and protect them.

Sixty percent of hunters in Zimbabwe are U.S. clients or citizens. I beg your pardon. The suspension already resulted in American hunting clients wanting to move their safaris elsewhere, which will result in loss of income to safari operators, professional hunters and guides, and also have downstream effects. It should be noted that the sector contributes significantly to anti-poaching funding.

Since the Fish and Wildlife Service cited lack of current information on the status and management of elephants within Zimbabwe and that the suspension could be lifted after the Service had received sufficient information, ZimParks officially responded on April 17, 2014, addressing all questions that had been raised and supplying a host of pertinent additional information.

Meetings have also been held between the Service, ZimParks, CAMPFIRE and safari operators together with the private sector, and to date no feedback has been received on these engagements.

We strongly urge the Fish and Wildlife Service to reverse the suspension which clearly has negative impacts to livelihoods and conservation, and appeal to them to work with Zimbabwe in strengthening conservation efforts in a constructive manner. Shutting down the trade is not the solution. The ban will result in irreparable damage to wildlife conservation, our heritage and lead to impoverishment of rural communities.

It will also lead to the reversal of the gains that we have achieved thus far in conservation.

I thank you, Mr. Chairman.

[The prepared statement of Mr. Tendaupenyu follows:]

PREPARED STATEMENT OF ITAI HILARY TENDAUPENYU, PRINCIPAL ECOLOGIST  
REPRESENTING THE DIRECTOR GENERAL OF THE ZIMBABWE PARKS AND WILDLIFE  
MANAGEMENT AUTHORITY

Mr. Chairman and members of the committee, I appreciate the opportunity to appear before you today to share my views on behalf of the Zimbabwe Parks and Wildlife Management Authority regarding the recent importation ban imposed by the U.S. Fish and Wildlife Service (USFWS) on sport-hunted elephants from Zimbabwe.

My name is Itai Hilary Tendaupenyu. I am a Principal Ecologist representing the Director General of the Zimbabwe Parks and Wildlife Management Authority ("ZimParks"). ZimParks' mission is to conserve Zimbabwe's wildlife heritage through effective, efficient and sustainable utilization of natural resources for the benefit of present and future generations and stakeholders. We strive to be the world leader in sustainable conservation.

ZimParks, much like the USFWS, has a mandate to manage the entire wildlife population of Zimbabwe, whether on private or communal lands. Although private landowners may utilize the wildlife on their land, they are still accountable to ZimParks for the welfare of the animals. Mandated with the protection, management and administration of the wildlife of Zimbabwe, ZimParks has a proud history of sound management that endeavors to conserve the unique flora and fauna heritage of Zimbabwe.

Zimbabwe welcomes President Obama's directive that U.S. Government executive departments and agencies assist foreign nations in building capacity to combat poaching of protected species and the illegal trade in wildlife. Although we agree with the goals of the directive, we do not agree with some of the strategies the USFWS has used to implement the directive. Instead of working with our wildlife management authorities, your FWS has made unilateral decisions and has issued edicts. The National Strategy on Wildlife Trafficking and the Advisory Council should guide international partnerships with nongovernmental organizations, local communities, and the private sector to promote mechanisms that prevent poaching

and illegal trade, rather than make decisions without including these important partners. Instead of collaborating with and assisting those who are directly involved with the day-to-day effort to combat illegal wildlife trafficking, the decisions recently made by the United States have undermined Zimbabwe's conservation efforts and the success of programs like CAMPFIRE, its revenue stream, and its anti-poaching work.

Sport-hunting and the revenue it generates for Zimbabwe and its people play a significant role in the conservation of Zimbabwe's wildlife. Revenue from sport hunting is paid directly to ZimParks and the Forestry Commission (depending on where the hunting takes place). Revenue is generated from auction bids for the right to hunt on some lands, hunting lease fees (concession fees), trophy fees, and daily rates paid by hunters. Those sources of revenue contribute wholly to the conservation budget of ZimParks and the Forestry Commission. They also contribute to revenue generated on communal lands (see CAMPFIRE discussion below). A significant portion of the revenue from sport-hunting comes from U.S. hunters. Zimbabwe's elephant conservation efforts and its anti-poaching strategies derive tremendous benefit from these sources.

Hunting often occurs in areas that are too dry for agriculture pursuits and non-hunting tourism. Without hunting, such areas would be prone to poaching due to the absence of human activity. Hunting brings accessibility to such remote areas in terms of roads, airstrips, and water development, thus making the areas economically, environmentally, and socially beneficial.

## 1.0 BACKGROUND

On April 4, 2014, the United States Fish and Wildlife Service (USFWS) issued a press statement whilst simultaneously informing Zimbabwe of the temporary suspension of all imports of African elephant trophies taken in Zimbabwe during the 2014 hunting season. The USFWS did not send Zimbabwe a request for information about these issues until the very day that they announced the ban. The USFWS in their communication advised that they could not make a positive finding that the importation of elephant sport-hunted trophies would enhance the survival of the species as required under their Endangered Species Act (ESA) and the African Elephant Conservation Act (AECA), both being stricter domestic measures. They also cited lack of current information on the status and management of African elephants within Zimbabwe and that the suspension could be lifted after the Service had received sufficient information.

To date, the Zimbabwe Parks and Wildlife Management Authority (ZimParks) officially responded on the April 7, 2014 to the USFWS addressing all questions that had been raised and supplying a host of pertinent additional information. Meetings have also been held in Washington, DC between USFWS officials, ZimParks and representatives of communities (CAMPFIRE), Safari Operators and the private sector from Zimbabwe. The USFWS has now had these materials for 6 weeks and yet, has made no effort to lift the ban that they based on what they claimed to be a lack of information. Now that they have had adequate time to review the information we provided, Zimbabwe would like to see the ban immediately lifted.

In all our submissions, we have been very clear and consistent about our displeasure with the manner in which this unilateral suspension was handled without prior engagement and notification, lack of transparency and science-based evidence to support this. We believe we have not been respected in all these processes.

Whilst the USFWS alluded to the fact that legal, well-regulated sport hunting, as part of a sound management programme, can benefit the conservation of listed species by providing incentives to local communities and to conserve the species by putting much needed revenue back into conservation, the suspension acts as a contradiction to all this.

## 2.0 THE STATUS OF AFRICAN ELEPHANT POPULATION IN ZIMBABWE

There are four major elephant geographical ranges in Zimbabwe namely North-West Matabeleland, Mid Zambezi Valley, Sebungwe and South-East Lowveld. These ranges cover different land tenure categories in Zimbabwe which include state protected areas (parks estate and indigenous forest areas) privately owned land and communal lands. Systematic aerial survey and sampling techniques are used to estimate elephant numbers throughout the four major geographical ranges in Zimbabwe. A national aerial survey of large mammals that was last conducted in 2001, estimated the elephant population to be 88,123. Partial surveys that have been done over years through aerial surveys, waterhole and road counts as well as ranger based data collection and monitoring show an increasing trend in elephant

populations in Zimbabwe. A national aerial survey for large mammals to determine the current population of elephants is planned for the 2014 dry season with funding from Paul G. Allen through an NGO “Elephants Without Borders” based in Botswana.

### **3.0 ELEPHANT DISTRIBUTION IN ZIMBABWE**

The distribution of elephants in terms of geographical ranges Zimbabwe is shown on Appendix 1.

#### **3.1 North West Matabeleland**

This area constitutes the range for the largest elephant sub-population in Zimbabwe occupying the Hwange-Matetsi Complex including several Forest Areas as well as Hwange and Tsholotsho communal areas. Based on national survey conducted in 2001, the elephant population for this area is now estimated to be 50,000.

#### **3.2 Mid-Zambezi Valley**

The elephant sub-population in the area occupies the Parks and Wildlife Estate between Lake Kariba and Kanyemba. Based on national survey conducted in 2001, the elephant population for this area is now estimated to be 20,000.

#### **3.3 The Sebungwe**

This area forms part of the elephant range and unlike other populations in Zimbabwe is largely closed, being isolated by Lake Kariba and surrounded by human settlements. Based on a survey conducted in 2006, the elephant population for this area was estimated to be 15,000.

#### **3.4 The South-East Lowveld**

This area forms part of the elephant range covering Gonarezhou National Park, Save Valley Conservancy, Bulyebe Valley Conservancy and the surrounding communal lands. Based on aerial surveys done in 2013, the elephant population for this area was estimated to be 12,500.

### **4.0 IMPLICATIONS OF THE SUSPENSION FOR ZIMBABWE**

The Zimbabwe Parks and Wildlife Management Authority was stunned by the unilateral decision by the United States Fish and Wildlife Services (USFWS) to suspend imports from elephant trophies hunted in Zimbabwe for the year 2014. This decision was taken without prior written notice or engagement with the Government of Zimbabwe. The suspension of imports of hunting trophies from Zimbabwe will have huge negative social and economic impacts on the national and local economies. Approximately, 67 percent of the annual elephant export quota is allocated to local communities and private sectors with more than half of this going to local communities. Sport hunting takes place in Safari Areas falling under the Parks and Wildlife Management Authority, Indigenous Forest Areas managed by the Forestry Commission, the Communal Lands where the Communal Areas Management Programme of Indigenous Resources (CAMPFIRE) occurs and the Private Game Farms and Conservancies.

The CAMPFIRE programme has created expanded wildlife range. However, its collapse through the ban will reverse this situation and create increased human and wildlife conflict since the buffer for human and wildlife conflict would have been removed and ultimately there will be increased illegal off take in the core range. This move will certainly impact on wildlife conservation, the economy, community livelihoods and the effects of this ban are explained below;

#### **4.1 Impacts of Suspension on the Parks and Wildlife Management Authority**

The principal and most important form of utilization of elephants in Zimbabwe is safari or trophy hunting. Suspension on imports from elephant trophies hunted in Zimbabwe for the year 2014 and their products has adverse impact on the economic development by destroying the safari hunting industry which is anchored on a few key species of which the elephant is included. Since inception, the Parks and Wildlife Management Authority has not been receiving any funding from the Fiscus or Central Government budget to fund day-to-day operational activities. The Authority currently generates its income for funding operations from sustainable conservation practices including sport hunting which contributes 30 percent of the total income. The Authority is expected to raise enough financial resources and mobilize other resources for wildlife conservation within and outside state protected areas. The consequences of this ban will be deteriorating infrastructure and equip-

ment due to resource constraints and increased illegal harvesting of the natural resources due to limited funding for resource protection and reduced community benefits through the CAMPFIRE programme. The Parks and Wildlife Act Chapter 20:14 as amended legally defines six categories of Protected Areas under the jurisdiction of the Parks and Wildlife Management Authority (Appendix 2). The six categories are National Parks, Safari Areas, Recreational Parks, Botanical Reserves and Gardens and Sanctuaries which in total cover about 13 percent of the country (5 million hectares).

The Authority has also a statutory obligation to manage wildlife conservation outside state protected areas and this entails undertaking functions such as problem animal control, fire management, law enforcement, environmental education and awareness campaigns, as its contribution to safeguarding our natural heritage, public safety and security, food security, etc. The costs of all these activities are borne by the Authority without any financial benefits at a time when the Authority is expected to be financially viable.

The Communal Areas Management Programme for Indigenous Resources (CAMPFIRE), a brainchild of the Authority (then Department of National Parks and Wildlife Management) is a national strategy that was established with the primary purpose of helping rural communities to sustainably manage their natural and cultural resources, derive income from the resource and determine how the income would be utilized. Out of Zimbabwe's total land area of 390,757 km<sup>2</sup>, CAMPFIRE manages about 49,700 km<sup>2</sup> or 12.7 percent of the country. CAMPFIRE manages for purposes of both wildlife conservation and other natural resources in areas with mostly rural communities. The basic premise of CAMPFIRE is that financial incentives are critical to the conservation and sustainable use of the country's wildlife and other natural resources. Natural resources in communal lands are communally owned. CAMPFIRE was designed as the answer to the management of this communally owned resource and an intervention that would prevent a chaotic situation derived from an open access regime. The demise of this community based natural resource management programme will therefore reverse the achievements of this programme.

#### 4.2 Impacts of Suspension on the CAMPFIRE Programme

Financial benefits from sustainable use have served to increase the confidence of communities in wildlife management, thereby improving tolerance and survival of wildlife species. Safari hunting is the key driver for Communal Areas Management Programme for Indigenous Resources (CAMPFIRE). Safari hunting benefits from large communal areas that are close to wildlife protected areas, have low density human populations and are set aside as concession areas leased for the purpose of sport hunting activities. CAMPFIRE was operationalized through the giving of Appropriate Authority status (AA) to the Rural District Councils. In the Parks and Wildlife Act of 1975 (Amendment of 1982), the AA is bestowed on the land holder and the RDC is the land holder in communal lands. Communities are only land occupiers under the jurisdiction of the RDC. Fifty-eight out of sixty districts in the country participate in CAMPFIRE.

The Guidelines for CAMPFIRE issued by Government of Zimbabwe underline the fact that CAMPFIRE is a community programme and based on this understanding stipulate that, **communities must at all-time receive the highest benefits**. The guidelines also stipulate that if RDCs fail to deliver to the communities there is the need to have the AA status reviewed and or withdrawn.

In this regard the guidelines stipulate the following:

- (i) Not less than 55 percent of gross revenue shall go to producer communities.
- (ii) RDCs shall receive a maximum of 26 percent of gross revenue for the purpose of managing the Appropriate Authority status on behalf of the communities. This entails law enforcement, monitoring and capital development for wildlife.
- (iii) The CAMPFIRE Association shall receive 4 percent of the gross revenue.
- (iv) RDCs also get 15 percent of gross revenue. This is to cover overhead costs.

In CAMPFIRE areas, a significant portion of the revenue generated from sport hunting is re-invested in wildlife conservation. It is noteworthy that revenue from elephant hunting contributes approximately 60 percent of total earnings by Rural District Councils annually. On average, US\$1.5 million per year in net income directly benefits local communities. This income is derived from the lease of sport hunting rights to safari operators. A lesser proportion of income is generated from tourism leases on communal land, and other natural resources management activities. Up to 90 percent of CAMPFIRE revenue comes from sport hunting and it is important to highlight that elephant hunting contributes more than 70 percent of

CAMPFIRE's annual revenue. If hunting is no longer an economically viable form of land use, communities will choose pastoralism and unviable agriculture, which reduces habitat available for elephants. Taking space away from elephants means more human and elephant conflict and as a result, more retaliatory killing of elephants, poaching and collusion with poaching syndicates. Local communities will only find an incentive to protect elephants if they can derive economic value from such a resource.

The ban will negatively affect Zimbabwe's efforts to meet the United Nations Millennium Development Goals through poverty reduction and rural development. The CAMPFIRE programme heavily relies on elephant trophy hunting for sustainable wildlife conservation. Apart from funding conservation, CAMPFIRE income is used, for community projects in the fields of education, health and other livelihood support services, in rural areas. Other benefits from elephant hunting include meat which is availed to rural communities providing the much needed protein in communal areas. The ban on elephant trophy imports into USA will result in reduced benefits flow to local communities in Zimbabwe (through the CAMPFIRE program). With the diminishing wildlife value, local communities may not support any conservation efforts and instead human-wildlife conflicts will be heightened and more wildlife land might be turned into other land use options that are deemed profitable by communities.

Human and elephant conflict has been on the increase in most of the areas adjacent to the major elephant range. Appendix 3 indicates the extent of human-elephant conflict in four hot spot districts for the period 2009 to 2011. In addition to the loss and injury to human life, communities adjacent to wildlife areas suffer the following:

- Destruction of crops which affects both the quality and quantity of harvests and impacting negatively on food security;
- Destruction of property;
- Depletion of water sources;
- Destruction of water infrastructure;
- Reduced grazing land;
- Restricted access to essential commodities such as firewood;
- Loss of opportunities to carry out other activities due to time spent guarding crops and property.

The strongest and most efficient way to combat illegal trafficking of wildlife and wildlife products in communal areas is to provide local communities with the incentive to participate in the war against poaching. Furthermore, the best way to engage communities is to increase the value of wildlife above the value of these animals to poachers and to the illegal trafficking trade. Once elephants are no longer economically important to local communities, those communities will have no incentive to keep elephants and protect them.

### **5.3 Impact on the Private Wildlife Sector**

The local safari hunting industry, constituted by a healthy balance of indigenous and non-indigenous players will have huge losses in revenue as the hunts for the 2014 season had already been marketed. More than 50 percent of hunting clients coming to Zimbabwe every year are from the U.S. market. Besides direct benefits from safari hunting such as cash and employment, indirect benefits arise from the multiplier effect in downstream activities such as taxidermists, dipping and packing companies, freight companies, ivory manufacturers etc. The annual CITES export quota for Zimbabwe is a maximum of 500 elephants (or 500 pairs of tusks). Between 2005 and 2009 total hunting receipts peaked \$360,125,327 over the 5-year period (Reserve Bank of Zimbabwe figures). This translates to an average of \$72,025,065 per year. Of the total hunting revenue in the country, elephant hunting contributes in excess of USD\$14 million every year. Furthermore, sport hunters are the first line of defense and the most important factor in ground intelligence, surveillance and a deterrent to poaching. It is therefore clear that the collapse of the hunting sector will have a negative impact on conservation efforts.

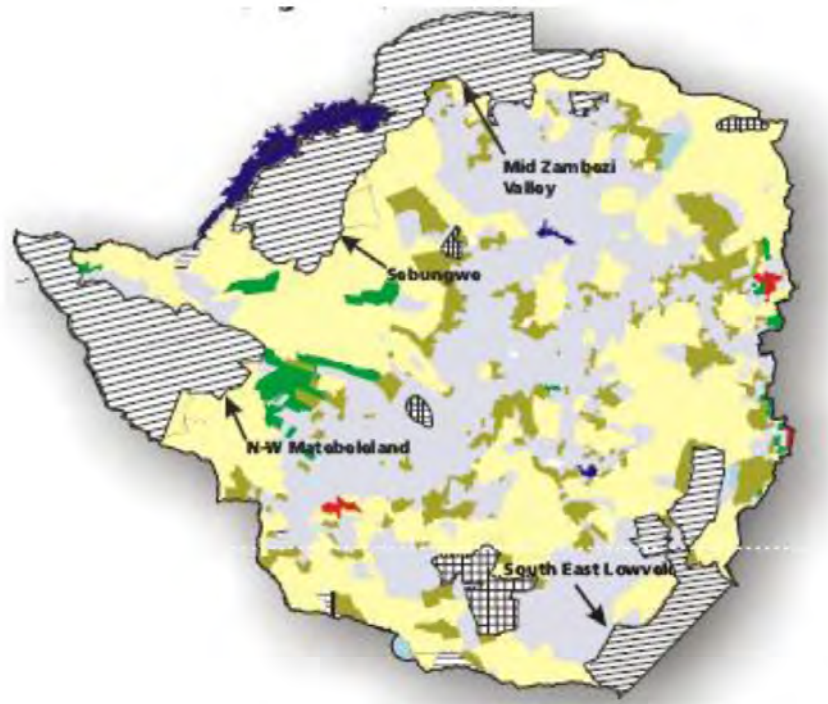
## **6.0 RECOMMENDATIONS**

Elephant sport hunting and hunting in general in Zimbabwe contributes significantly to the national economy and should therefore be promoted. It has been demonstrated that the elephant as one of the Big Five, is the backbone for the hunting industry in the country. Hunting is therefore crucial to the flow of revenue for conservation and all the benefits to communities in terms of employment, community

projects and protein. The aggregate effect of elephant hunting to communities is the reduction of poverty and improved living standards. In light of this, we strongly appeal the USFWS to reconsider the policy of banning the commercial trade in elephant ivory taking note of the serious negative consequences of such a policy. Zimbabwe earnestly looks forward to a favorable review of the suspension of the importation of Zimbabwe's sport hunted elephant trophies taken in 2014.

\* Supporting materials are attached as Appendices 4–6.

### **Appendix 1: Elephant Range in Zimbabwe**





## Appendix 2: Categories and Numbers of Protected Areas in the Zimbabwe

Category of Protected Area	Number of Protected Areas
National Parks .....	11
Recreational Parks .....	16
Sanctuary .....	6
Safari Areas .....	16
Botanical Reserves .....	14
Botanical Gardens .....	3
TOTAL .....	66

## Appendix 3: Human and Wildlife Cases for Four Hotspot Districts from 2009 to 2011

District	Number of Cases	Humans Killed	Humans Injured
Binga .....	36	8	0
Mbire .....	6	5	1
Hwange .....	289	2	1
Tsholotsho .....	41	0	0
TOTAL .....	372	15	2

## SUPPORTING MATERIALS

### Appendix 4: Zimbabwe Professional Hunters and Guides Association

#### *Zimbabwe Professional Hunters & Guides Association*

18 WALTER HILLAVE  
EASTLEA  
HARARE  
ZIMBABWE

TEL: +263-4-702402  
E-MAIL: zphga1@gmail.com  
soaz1@nwrb.co.zw  
Website: www.scaz.net

The Honorable Daniel Ashe  
Director, United States Fish and Wildlife Service  
Department of the Interior  
1849 C Street, NW  
Washington, DC 20240

16<sup>th</sup> April 2014

Dear Director Ashe,

#### RE: Elephant importation suspension from Zimbabwe for 2014.

The Elephant importation suspension announced on the 4<sup>th</sup> Of April 2014 by the US FWS has been a shock to our country and the Hunting and photographic Industry, not only on the bad timing but also the lack of consultation with Local authorities.

Zimbabwe has 570 Professional Hunters registered in the country. The **Zimbabwe Professional Hunters and Guides Association (ZPHGA)**, represents 120 of these registered professionals, meaning these are the acting professionals in the field at this current time that subscribe to our code of ethics and its constitution. ZPHGA will not speculate on the population of elephants in Zimbabwe as we shall leave this up to the scientists to argue. Our Employers Association, SOAZ has compiled a report on the elephant populations, statics and economic impact of the suspension.

35 Members of ZPHGA responded to our survey on the repercussions felt by this suspension. Our Members are the professionals hired by outfitters to conduct these safaris and are hired independently. A total of 1430 work days are potentially lost with revenue of US\$286,000. These 35 individuals in turn have approximately 446 dependants that rely on this income. These are Professional Hunters, their personal employees, next of kin etc.

PH Responded	Dependents			Staff			Dependents	Days Lost	Revenue Lost
35	Wife	Children	Elderly	Tracker	Skinner	Other			
<b>Totals</b>	32	54	36	82	27	337	446	1,430	\$286,000

The immediate effect of the suspension could be that outfitters would simply try and sell these hunts to hunters from other countries. This would mean only the nationality of the hunters would change and the same amount of elephant will be harvested. If the reason for US FWS is for the protection of Elephants, then this reasoning is null and void.

One could argue that ZPHGA would then be compensated by different nationals however; about 60% of all hunters into Zimbabwe are US citizen and therefore the majority of market share. This loss would have an adverse effect on supply and demand and the revenue loss would still be significant.

The loss of revenue is very important for the sake of conservation. Our Professionals are the first line of defence and the most important factor in ground intelligence, surveillance and a deterrent to

poaching. It is a fact that Poaching escalates in the Non hunting months of November to March, due to the lack of presence on the ground, being our Professionals.

The risk and reward is favourable towards the protection of elephant if the reward outweighs the risk. Elephant poachers are armed and most often engage into gun fire when contact is made. This is a matter of Life and death. Our Professionals are not under any orders to engage with armed poachers, nor are they trained for this specific task. They do however engage into these life threatening situations as the reward of providing for 446 dependants outweighs the risk. If the revenue is significantly lessened by selling these hunts at a lessor price, or cancelling them, the risk will, and does outweigh the reward. This is a very significant change in Mind set and will have long ranging effects to morale. If elephant hunting is suspended or devalued, our professionals will have no incentive to help protect Elephants from Poaching.

ZPHGA has the most rigorous examinations for Professional Hunting in the world and is a 2 year apprenticeship. Our Professionals are entrusted to ensure Elephants of suitable age are harvested in the most humane manner. Our code is to ensure all hunting is done in a responsible and ethical manner.

The role of the Professional hunter and his staff in providing Intelligence and a deterrent to anti-poaching cannot be underestimated. This suspension will result in the loss of membership and their expertise and knowledge. ZPHGA believe that this Elephant suspension will dramatically increase poaching in elephant and other wildlife species.

Yours Respectfully

Mr L. Muller

Chairman

Zimbabwe Professional Hunters and Guides Association

## **Appendix 5: Safari Operators Association of Zimbabwe**

### **Status of Elephant Populations, Hunting and Anti Poaching Effort in Safari Areas in Zimbabwe**

**Report Compiled by the Safari Operators Association of Zimbabwe (SOAZ)**

**April, 2014**

#### **Introduction**

The objective of this report is to provide basic information on the current status of elephant populations, the quotas of elephant hunted from these populations, the people dependent on the safari hunting both commercial operators and their staff and communal and also the levels of anti poaching employed. It has been hastily compiled from a number of safari operators in response to the recent announcement by US Fish & Wildlife Service of a suspension of the import of trophies from elephant sport hunted in Zimbabwe during 2014.

We have received information from fourteen safari operators in Zimbabwe. The operations of these companies cover a wide range of safari concessions including Government Safaris Areas, Campfire Areas and Private Conservancies. They also include safari concessions in the three main wildlife systems in Zimbabwe being; (1) Zambezi Valley and Sebungwe, (2) the North West including Hwange / Matetsi / Vic Falls and (3) the South & South East Lowveld including Gonarezhou, Save Valley Conservancy & Bulyebe Conservancy.

While there are many more than 14 safari operators in Zimbabwe, we are confident that this covers a wide enough cross section of operations and safari concessions that the information gathered provides good, recent information on the status of elephant populations and with regards dependents and financial information, is representative of the safari industry at large. Given more time we could canvas more operators and produce a more detailed report.

#### **2. Elephant Populations and levels of Poaching**

##### **2.1 South and South east Lowveld**

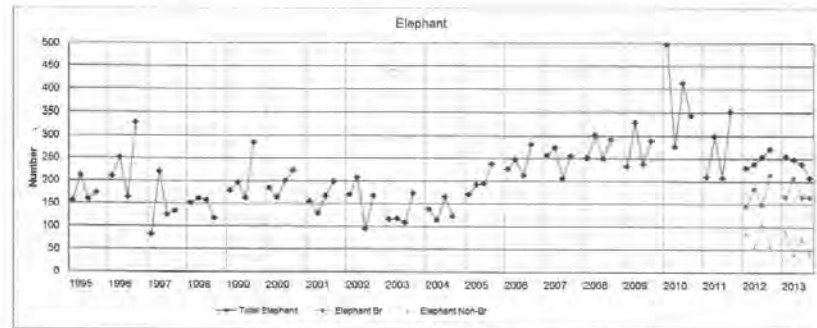
An aerial survey of **Gonarezhou National Park** last year put the elephant population at over 10,000 (Kevin Dunham per com.). This is the highest number recorded yet for the park which has a carrying capacity estimated at about 3,000. In 2007 the population was estimated at 5,000 elephants (African Elephant Database 2007). Frankfurt Zoological Society entered into a management partnership with Zimbabwe's Parks and Wildlife Management Authority (PWMA) in 2008 and have provided funding for management functions such as anti poaching. As a result, the instances of elephant poaching within the Park have been negligible and by all accounts, the elephant population continues to increase. There are a number of safari concessions bordering or close to the Gonarezhou Park including Mahenye, Chitsa, Naivasha, Malipati, Sengwe and Gonakudzingwa. These concessions have few resident elephant and are dependent on the elephant moving between the areas and the National Park. In total, an average of 40 elephant bulls are shot from these concessions each year.

In the **Save Valley Conservancy** there is an estimated population 1538 elephant based on a total aerial count conducted in September 2013. This has increased from an estimated 990 in 2006. Save Valley Conservancy conducts an annual aerial count and has done so since 2002 (reports are available). It also has an Elephant Management Plan which was developed in 2004 with financial assistance from the US Fish & Wildlife Service. There are no cases of elephant being poached within the Save Valley Conservancy. There are cases of elephant that have picked up snares and due to the nature of the wounds, having to be put down.

In **Bubye Conservancy** they have an estimated 540 elephant. This is a growing population and they have no recorded cases of elephant poaching. Bubye provided 39 elephant in 2013 to the newly formed Nuanetsi Conservancy in southern Zimbabwe as a nucleus population for this new wildlife area. This is evidence for the range of elephants in Southern Zimbabwe increasing.

## 2.2 Zambezi Valley and Sebungwe

The Zambezi Valley downstream of Kariba may be holding more than 20,000 elephants (Dunham obtained an estimate of 20,000 in 2003). This figure is far more than is believed to be sustainable (Martin, R. per com.). Reports of illegal hunting in the Zambezi Valley suggest that elephant poaching is manageable and that it isn't having a significant impact on the population. The Wildlife and Environment Society of Zimbabwe have done an annual game count in **Mana Pools National Park** in the middle of the lower Zambezi Valley since 1995. While conducted by wildlife enthusiasts and not as part of a scientific programme, the count uses the same transects and methodology each year and can give an indication of population trend. The results (Figure 1) would indicate a



general increase in the elephant population over the last 20 years.

**Figure 1. Number of elephant recorded during the WEZ Annual Game Count in Mana Pools National Park.**

In the **Rifa, Makuti, Nyakasanga** and **Mana Pools** areas of the Zambezi Valley, there were 24 elephant carcasses located as a result of elephant poaching in 2013. A further 29 were recorded in **Chewore North and South** (Louis Muller - ProSafaris, Pers Com.).

In the **Dande Safari Area** and communal Land, Buzz Charlton reported 1 elephant carcasses as a result of poaching in 2013. In 2009 they found numerous carcasses. During the period 2009 - 13, they have invested in an anti poaching unit and it would appear to have had a significant impact on reducing the incidents of elephant poaching. Since 2009 when Charlton & McCullam Safaris started operating in Dande they believe that the elephant population has not increased but has remained fairly stable.

The Sebungwe region (the area south of Lake Kariba and predominantly rural communities) has probably suffered a decline in elephant numbers. Dunham (2006) estimated 15,000 elephants in this area but the survey revealed a high proportion of carcasses in the sample count. With the human population explosion, there could be as few as 5,000 now (Martin, R per com). Operator Estimates put the population of elephant in **Sengwe** at 600 (Gary Duckworth - Mokore Safaris), **Charisa** at 1000 - 1200 (Philip Smythe - Ivory Trail Safaris) and **Omay** at 250 (Martin Pieters - Bulembi Safaris). These operators have reported a large number of poached elephant carcasses in

their areas and it would appear that the elephant in this area are suffering from increased poaching pressure.

### 2.3 North Western Zimbabwe

Extrapolation of the numbers from the last aerial survey of elephant in Hwange, conducted 2008, would put the elephant population at some 50,000 (Martin R, pers com). In the remainder of Matabeleland North (the area between Hwange and the Victoria Falls there may another 5,000-10,000 elephants. There is immigration taking place from the large, unmanaged Botswana elephant population.

There have been a number of cases recently which have highlighted the poaching of elephant in this region. At the end of 2013 there were 106 elephant carcasses found that had been poisoned by cyanide in specific water holes. The people responsible for this were caught and received significant prison sentences. There have been no further cases of poisoning reported. In the last month, two gangs of poachers from Zambia have been apprehended, one gang carrying 37 tusks. The authorities reacted to information in both these incidents and the poachers were apprehended. However, the elephant population would appear to be increasing in Hwange National Park and there are no indications it is declining.

Barry Style from Buffalo Range Safaris reports that in Matetsi Unit 6 and the Forestry / Ngamo Safaris Areas they have found about 10 elephant carcasses in the last 5 years. He mentions that there was quite a bit of elephant poaching activity three years ago but officers from Zimbabwe PWMA killed and arrested members of two gangs of Zambian poachers and since then it has been largely quiet. They do not believe that the elephant population in Matetsi area has declined.

### 3. Financial Cost of the Suspension

The results of questionnaire responses from 14 safari operators indicate that for the 110 elephant on quota between them, there will be a combined financial loss of \$3,364,450 to them and to Zimbabwe (Table 1). This will have a direct impact on 87 operators and Professional Hunters, 781 Staff, 245 Anti poaching personnel and approximately 108,000 people in rural communities living with elephants.

**Table 1. Results to show the number of dependents, elephant on quota and the loss of revenue and hunting days as a result of the US Fish & Wildlife Services suspension on import of elephant trophies for 14 Safari Operators in Zimbabwe**

Operator & PH's	Dependents			Number of Elephant on Quota	HuntingDays Lost due to Suspension	Value of Loss
	Staff	Anti Poaching	Community			
87	781	245	108312	110	1430	US\$3,364,450.00

It is estimated that trophies of 160 sport hunted elephant are imported into the USA from Zimbabwe each year. If the information in Table 1 is extrapolated out for a quota of 160 elephant (i.e. multiply each figure by a factor of 1.45) then we can assume that the financial loss to Zimbabwe of the suspension will be in the region \$4,878,452.50. It will have a direct impact on 126 Operators and Professional Hunters, 1132 staff, 355 anti poaching personnel and approximately 155,000 people living in rural communities.



#### 4. Anti Poaching Effort

As has been highlighted in Section 2, there is elephant poaching in Zimbabwe, both from external sources and from within the country. Without control and significant anti poaching effort, there is little doubt that the levels of poaching would increase dramatically and the elephant population in Zimbabwe would be under serious threat.

Table 2 shows that the 14 Safari Operators that responded to the questionnaire spent a combined total of \$957,843.00 on anti poaching in their areas and this employs 245 people specifically for anti poaching.

**Table 2. The expenditure on Anti Poaching and number of Anti Poaching personnel employed by 14 Safari Operators in Zimbabwe**

Anti Poaching expenditure - 2013	Anti Poaching Personnel Employed
US\$957,843.00	245

As in Section 3, if these figures are extrapolated out to give figures relative to the 160 sport hunted elephant imported into the USA each year from Zimbabwe, we can make the assumption that US hunters are assisting with the funding of \$1,388,872.35 towards anti poaching in Zimbabwe through their safari payments and that this is enabling the employment of 355 anti poaching personnel along with all the equipment and support required. The imposed suspension on the import of sport hunted elephant into the USA from Zimbabwe will have a significant detrimental impact on these figures and in many cases the anti poaching efforts will not be sustained.

#### 5. Conclusions

5.1 The most recent population surveys of elephant in Zimbabwe would estimate the national population to be over 100,000 individuals. This is the highest number of elephant Zimbabwe has had in recent times and represents a significant over population for the available range which will have a negative impact on species diversity.

5.2 The members of SOAZ do not believe that the national population of elephant is in decline or under threat as a result of poaching. On consultation with our members, most populations would appear to be increasing or stable. There does seem to be concern about the elephant population in the Sebungwe region where the impact of poaching is indicated as significant. While much of this information is anecdotal and not based on scientific survey, we are confident that in the vast majority of safari areas throughout the country, the elephant population is not significantly declining or under threat.

5.3 While National Parks provide the primary refuge for elephant populations in Zimbabwe, a significant proportion of elephant live in the safari areas which are generally more marginal in terms of wildlife numbers and often have large rural human populations within or adjacent to them. The role of safari operations in providing a benefit to such communities and enforcing anti poaching as a means of maintaining elephant and other wildlife populations in these areas cannot be underestimated.

We believe that the current suspension by US F&WS will result in the removal of operators from some areas (predominantly the CAMPFIRE areas) and the significant reduction of viability in other areas. This will result in the elephant and other wildlife populations in the affected areas being exposed to an increase in the levels of poaching and, therefore, population declines will result.

Zimbabwe of any action taken in recent decades. It is important to note that such a process will not be reversible.

5.4 The suspension on the import of elephant trophies into the USA from Zimbabwe has already had an impact with American hunting clients wanting to cancel or move their safaris. We would like to urge US Fish & Wildlife Service to reverse this suspension as soon as possible to prevent further damage to this industry and the positive work it is doing in protecting the wildlife resource in Zimbabwe.



## Appendix 6: Professional Hunters' Association of South Africa



### Professional Hunters' Association of South Africa *Professionele Jagtersvereniging Van Suid-Afrika*

PO Box 10284, Centurion, 0046, South Africa. Tel: +27 (0) 12 667 2048 Fax: +27 (0) 12 667 2049

E-mail: info@phasa.co.za Website: www.professionalhunters.co.za

17 April 2014

The Honorable Daniel Ashe  
Director, United States Fish and Wildlife Service  
Department of the Interior  
1849 C Street, NW  
Washington, DC 20240

Dear Director Ashe,

**RE: Suspension of Import of Elephant Trophies from Tanzania and Zimbabwe**

#### SUSPENSION OF IMPORT OF ELEPHANT HUNTING TROPHIES TAKEN IN TANZANIA AND ZIMBABWE IN 2014

1. We note from your press release dated 4 April 2014 and also your "Questions & Answers" document that you advance a number of reasons and suppositions on which you base your decision to implement your suspension.
2. We submit, with respect, that your reasons and/or suppositions are neither sound nor based on fact nor do they make any conservation sense. In certain instances the reasons and suppositions seem to be contradictory.
3. You state for instance "a lack of effective law enforcement ... resulted in uncontrolled poaching and catastrophic population declines of African elephants". We acknowledge that such a lack, insofar as it may be present in certain areas, is problematic, but we submit that your suspension will in fact contribute to a massive, full scale breakdown in law enforcement. It is well documented that controlled hunting areas comprise the largest percentage of Africa's wildlife areas and also often form buffer zones around national parks and reserves. It is furthermore a well-documented fact that the hunting companies that operate in these areas form the first and most effective line of law enforcement defence in these areas. Your suspension will result in such a significant financial loss for these companies that many of them will be forced to either withdraw from their controlled hunting areas or to suspend or scale down their anti-poaching programmes. The ensuing vacuum will be devastating, not only for elephant populations but for all wildlife populations and the ecology as a whole. Historical evidence shows that poaching escalates at alarming, exponential rates in such a vacuum. See for instance the well-documented declines in wildlife populations in Kenya, Tanzania and the DRC during periods of sport hunting bans.



*Affiliations: Umfolozi Safari Club, ECTPMA, Houston Safari Club, PPMA, ERCA, SATSA, Safari Club International, The Conservation Force.*

4. You state that you base your decision in respect of Zimbabwe on "*limited data*" and "*anecdotal evidence*" and then conclude that "*Zimbabwe's elephants are also under siege.*" We are extremely concerned that you are prepared to make such a far-reaching decision based on such data and evidence. You refer to one specific incidence of poaching (of which the correctness of your figures is also disputed) without advancing any evidence that there is a systemic poaching problem in Zimbabwe. We are furthermore concerned that you may not have considered all the scientific evidence relevant to Zimbabwe. There are a number of scientific studies, by reputable scientists, that suggest that Zimbabwe's elephant populations are in fact on the increase. Others suggest that any decline in certain local populations, if there is such a decline at all, may be the result of natural, cyclical circumstances or habitat destruction as a result of elephant overpopulation. These studies should, in our opinion, be considered when one considers the "*current situation on the ground*".
5. It is to be noted that the poaching incident that you refer to was, to the best of our knowledge, discovered by hunting operators and that the perpetrators were caught, through the direct intervention of the hunting outfitters in the area, and duly convicted and sentenced.
6. You state that: "*Additional killing of elephants in these countries, even if legal, is not sustainable and is not currently supporting conservation efforts that contribute towards the recovery of the species.*" And then go on to state that "*Legal, well-regulated sport hunting, as part of a sound management program, can benefit the conservation of listed species by providing incentives to local communities to conserve the species and by putting much-needed revenue back into conservation.* (Our emphasis.) We fully agree with your last-mentioned statement but fail to understand on what basis you proclaim the opposite in your first-mentioned statement.
7. You advance no evidence to suggest that legal elephant hunting in Tanzania and Zimbabwe is "*not sustainable*".
8. In your "Questions & Answers" document you state that "*Tanzania's and Zimbabwe's elephants face an uncertain future.*" We submit, again with respect, that your decision will only lead to much higher levels of uncertainty, nothing else. It goes without saying that your decision will cause a major collapse in the long-term viability of the hunting industries of the countries in question, something that is of paramount importance in order to secure a certain future for Africa's elephants and wildlife. It is well documented that without a healthy hunting industry the following will happen:
  - 8.1 Anti-poaching patrols and law enforcement by hunting companies will be scaled down or terminated in millions of acres of wildlife areas due to lack of funding (generated through lawful hunting) or due to hunting operations withdrawing from areas.
  - 8.2 Government Game Departments will lose funding (loss in license and concession fees) which will have a direct effect on their ability to implement anti-poaching and law enforcement measures.

Dr. FLEMING. Thank you, Mr. Tendaupenyu.

At this point we will begin Member questioning. To allow all Members to participate and to ensure we can hear from all of our witnesses today, Members are limited to 5 minutes for their questions. However, if Members have additional questions, we can have more than one round and we usually do.

I now recognize myself for 5 minutes.

Mr. Dreher, how long have you been with the service?

Mr. DREHER. I have been with the Service for just about a month.

Dr. FLEMING. Just about a month. OK. Is there a significant problem with illegal, that is, I guess, smuggling, illegal transfer of ivory into the United States?

Mr. DREHER. Yes.

Dr. FLEMING. OK. In a statement by your Service—September 2012, Fact Sheet, indicating “we do not believe that there is a significant illegal ivory trade into this country.”

Can you explain?

Mr. DREHER. I think we have had since that time substantial law enforcement evidence of illegal activity coming into the country.

And let me add, by the way, Mr. Chairman, that I came to the Service from a position as the Acting Assistant Attorney General for the Environment and Natural Resources for the Department of Justice, and the Department of Justice, of course, prosecutes these criminals.

Dr. FLEMING. Right. But to save time here, instead of going through your resume, the point is: what significant thing has occurred? What disaster has occurred in the last 2 years?

Mr. DREHER. Well, first the disaster, I think, is the mounting awareness of the crisis in the killing of elephants in Africa. What we are seeing in terms of law enforcement, Mr. Chairman—I do not intend to be evasive—in law enforcement we are seeing mounting evidence in our law enforcement operations of substantial illegal importing of ivory into this country.

Dr. FLEMING. OK. Now, last month, this is from the Federal Register. This is last month. “We do not believe it is necessary for ensuring the conservation and sustainable use of the species to retroactively apply current import-export restrictions to domestic activities involving specimens that were legally imported prior to the imposition of those restrictions.”

So, again, 2012 there was not a problem. In fact, I heard the Acting Ranking Member mention that the United States is the second most illegally transferred Nation while, in fact, CITES says in 2013—I am sorry—2014, it is not among the top eight. In fact, it is not even listed at all.

So why is it that all of a sudden after years of things being fine in terms of not what is happening in those countries, in Africa, but what is happening here, the illegal importation of ivory?

2012, 2013, 2014, no problems. All of a sudden you are here a month and you say there are huge problems. What has happened in the last month?

Mr. DREHER. Well, let me again say that I have been responsible for prosecuting these criminals for much longer than a month in my role at the Justice Department, but in answer to your question

about what has changed in our perspective, first, the United States as a government has recognized the importance of taking all steps possible——

Dr. FLEMING. Again, sir, you are not answering my question. My question is what has changed in recent history. What is new?

Has the crime rate tripled, quadrupled? What has happened here?

Have your prosecutions—and we will check this—have your prosecutions increased? Have you sent many more, scores of more people to prison as a result?

What is different?

Mr. DREHER. Well, as I explained, I think our law enforcement operations are, in fact, detecting the illegal import of African——

Dr. FLEMING. You think it is. It does not matter what you think. I want to know what is documented. What is documented that has happened in the last 2 years to make Fish and Wildlife say one thing in 2012, that there is no significant problem, and you all of a sudden, you are here on-line for a month, and you say there is a significant problem?

What has happened? Tell me what is different.

Mr. DREHER. The evidence we have seen from our law enforcement operations, which includes, for example, the prosecution and——

Dr. FLEMING. Well, what is it?

Mr. DREHER [continuing]. And incarceration of——

Dr. FLEMING. I know you are saying that, but what is the evidence?

Mr. DREHER. A ton of illegally imported ivory disguised to look like antiques seized in a case that we have just discussed before you.

Dr. FLEMING. One case.

Mr. DREHER. Two tons of illegally imported ivory seized at JFK Airport in 2012. These are not the only law enforcement operations that have shown evidence of illegal import of disguised ivory into this country.

Our law enforcement officials believe that this is a significant problem, and we are doing everything we can to address it.

Dr. FLEMING. So as a result of one or two cases of significant, substantial amounts that you claim today—we have not seen the evidence of it, documentation of it—you are saying that we should now deem all owners of ivory, perhaps owning it for generations in their families, that it no longer has any value, cannot be transferred to someone else, and that the burden is on that individual to prove that it is legal ivory, which is impossible in most cases, because of something that happened in the last year or so?

Mr. DREHER. If I may remind you, sir, the policy of the United States expressed in the Endangered Species Act generally is that trade in endangered species is prohibited, and there are exceptions to that. We have a special rule for African elephants. The special rule was adopted many years ago when it was not as obvious as it is today.

Dr. FLEMING. Well, I am out of time. Again, you are not coming forward with any real information.

I yield to the Ranking Member for questions.

Mr. LOWENTHAL. Thank you, Mr. Chair.

I just want to clarify something. When I talked about in my opening statement in the past year over 35,000 elephants and 1,000 rhinoceroses have been killed illegally for their tusks and horns, the issue about where we rank is clearly this. Where does the United States rank in terms of a market for ivory?

Do not talk about legal-illegal. We are just talking about a market. Where are we in terms of that world market?

Mr. DREHER. Mr. Lowenthal, I am sorry to say that as with any kind of illicit trade, it is very difficult to establish exact dimensions.

Mr. LOWENTHAL. We are not talking about illicit trade. We are just talking about market. I believe that we are the market for ivory. The United States ranks second in the world in terms of a market for ivory that is sold. Is that true?

Just a moment. We are not talking about illicit. We are just talking about all ivory.

Mr. DREHER. I cannot confirm that we are second. I can confirm that we are a very major market for—

Mr. LOWENTHAL. I can confirm that we are second, Mr. Dreher. I can confirm that.

Let me go back and talk about why and with just the understanding of what the underlying problem is because that is really why we are here. We are not really here just to talk about, although some of the things that have occurred in the 1-year ban of ivory, sports elephants from Tanzania and Zimbabwe; in the 1800s, ladies' hats were made of feathers and they were made of eagles, hawks and herons. They were very popular, so popular that their desire or their market almost wiped out populations of migratory birds in the Western Hemisphere.

In 1918, this Congress passed the Migratory Bird Treaty Act, or MBTA, which implemented a strict ban on the trade of migratory birds. Populations of these species have rebounded and there is no demand today for these feathered hats.

Why do you think that MBTA and similar laws like the Bald and Golden Eagle Protection Act have been so effective?

And do you think it is time to bring protections for African elephants more in line with the protections that we provide now for migratory birds?

Mr. DREHER. I think it is certainly true that the conservation laws that were enacted to protect migratory birds have been enormously successful. They have been successful both in immediately restricting trade in wildlife that was decimating the populations of migratory birds.

They have also been successful, I think, in creating long-term changes in popular culture and taste. You know, we no longer see ladies' hats that are of the same even with artificial bird feather and that sort of thing.

I think that is one of the things that we can attempt to do here, is to try to both be vigilant in trying to crack down on the illicit trade in ivory. We can also attempt to send a message that commercialization of wildlife that leads to its extinction is not acceptable, and that I think is certainly a message that we are trying to send here.

We crushed ivory, for example, at the ivory crush out in Denver, six tons of ivory that had been taken as illegal imports by law enforcement officials. We crushed that ivory to send a very clear signal that the ivory was not meant to be seen as items of value. It was meant to be seen as evidence of the destruction of wildlife.

Mr. LOWENTHAL. And the question has also been raised that these are onerous regulations. I would just like to clarify that: is it not true that the ivory import ban under the African Elephant Conservation Act is stricter than what the Administration is proposing now?

Is it not also true that the Endangered Species Act, Section 4(d), for African elephant ivory is more lenient than the rules for trading other types of ivory, and that a revision of this rule will still be more flexible for importers of antique ivory than the provisions of the African Elephant Conservation Act? Is that not true?

Mr. DREHER. That is absolutely true, that the African Elephant Conservation Act moratorium is absolute. We are administering it with some sensitivity and flexibility. We are trying to work closely with stakeholders.

The same is true of the prohibitions of the Endangered Species Act that would otherwise apply if it were not for a special rule that we have adopted and which we are proposing to revise, not rescind, but revise in order to make it more effective in achieving conservation, but still being sensitive to legitimate owners of ivory and their needs.

Mr. LOWENTHAL. Maybe you can tell us then just in my last question how tightening restrictions on domestic ivory trade will help reduce the poaching and trafficking crisis that Africa is facing today.

Mr. DREHER. Well, the major thing driving the poaching is the illegal trade in very high value artifacts, and it is disguised in this country and elsewhere around the world as legitimate ivory trade, reaching very high value. If we can limit the market and if we can eliminate the ability of the legal trade to cover and to disguise the illegal trade, it will help us enormously in terms of reducing the market for this ivory and in cutting out the economic incentive for these criminals to kill wildlife.

They are not killing elephants because they hate elephants. They are killing elephants because they see them as sources of money, and if we can take the money out of the equation, they will stop killing elephants.

Mr. LOWENTHAL. Thank you, and I yield back.

Dr. FLEMING. The gentleman yields back.

Mr. Young is recognized.

Mr. YOUNG. I thank the members. I have another meeting I am chairing.

Mr. Hilary Tendaupenyu; is that correct?

Mr. TENDAUPENYU. Tendaupenyu.

Mr. YOUNG. Were you contacted by the Fish and Wildlife, being as you are the head of the Fish and Wildlife in Zimbabwe?

Mr. TENDAUPENYU. When, sir?

Mr. YOUNG. Relative to the suspension.

Mr. TENDAUPENYU. No, before that there was no communication.

Mr. YOUNG. It would seem to me that they would have the courtesy to at least contact the country which the elephants are supposedly a problem.

The elephant population is healthy in your country?

Mr. TENDAUPENYU. It is actually on the increase, sir.

Mr. YOUNG. The elephant is a consumer of forage and a destroyer of other property; is it not?

Mr. TENDAUPENYU. That is correct.

Mr. YOUNG. And in your opinion, what do you think will happen if, in fact, this hair-brained idea from Fish and Wildlife becomes a reality? What do you think will happen to the elephant herd in Zimbabwe?

Mr. TENDAUPENYU. It will result in the decimation of populations.

Mr. YOUNG. And you base that upon the poaching primarily? There is no value so they take the elephants for food or what do you base that on?

Mr. TENDAUPENYU. Well, basically we are saying that if we are no longer able to fund conservation activities and communities are no longer able to derive benefit from it, it will be a free-for-all and poaching will increase, and as that it will result in the decline in our elephant population.

Mr. YOUNG. Well, I hope that some of my colleagues follow up, sir, because I am disgusted right now with our government and the Fish and Wildlife Department for putting up a "fusscade"—I call it a "fusscade"—for saying this is for conservation. It is not.

This is to make somebody feel good, Friends of Wildlife, Defenders of Wildlife, and I can go right down the line. This will kill elephants. It has happened before.

Mr. Dreher, how do you differentiate between elephant ivory and walrus ivory?

Mr. DREHER. There are actually tests that we can use readily in the field to differentiate between them.

Mr. YOUNG. So this will not affect walrus ivory?

Mr. DREHER. No.

Mr. YOUNG. What kind of test do you have?

Mr. DREHER. I believe it is a chemical test, but—

Mr. YOUNG. Well, it says here that you are backing off of required DNA tests. Now, what are you going to do to test the two different ivories?

Mr. DREHER. My understanding is it is actually visual inspection.

Mr. YOUNG. Visual inspection although carved.

Mr. DREHER. And our agents can determine the difference between them.

Mr. YOUNG. That is horse nosey. If you do not know what horse nosey is, it is related to the back end of the horse.

Mr. DREHER. I was going to—

Mr. YOUNG. OK. You know this, and the Fish and Wildlife up there in the State of Alaska, your agency, now has the gall to make it their interpretation of, in fact, what can be done and how it can be identified of other species under the Endangered Species Act, primarily the sea otter. That is an agent that does not know Shinola.

Now, do you have a standardized test that is going to be in the field?

Mr. DREHER. My understanding is that our law enforcement officers can, in fact, determine the difference and are doing so in the field.

Mr. YOUNG. But your agents cannot tell if ivory is this year or 10 years old or 50 years old.

Mr. DREHER. No, that we cannot do readily, unfortunately. That takes a laboratory analysis, and it is expensive, and it is destructive.

Mr. YOUNG. So I have an ivory pistol, an ivory handled pistol that is 100 years old, and I want to import it or export it, and this would preclude me from doing it?

Mr. DREHER. It would depend on your documentation for the age of the pistol.

Mr. YOUNG. I have no documentation. I inherited it.

Mr. DREHER. You can probably show some evidence of when you inherited it or when your parents had it. I mean, it is not as if you—

Mr. YOUNG. I inherited it from my Uncle John, and he had nothing, but I inherited it. It was in his will, but he's my uncle. So I can now import or export. It is not going to be prohibited.

Mr. DREHER. If it is over 100 years old it is an antique under the—

Mr. YOUNG. Well, how do you tell? You just told me you could not tell if it was 100 years old.

Mr. DREHER. That is actually going to be the burden that you will bear, sir.

Mr. YOUNG. Oh, I will bear it, but that means the government can seize it.

Mr. DREHER. If you cannot document your attempt to import—

Mr. YOUNG. There we go, guys. There is the Chairman. Here we come. Uncle Sam is going to take and say you have to prove it. You are guilty because we say you are.

That is wrong. That is wrong, and this is not going to save the elephants.

For those in the audience who think you are saving elephants, you are going to be killing these elephants. There is a value when they can be hunted. There is a value when they can be, in fact, managed. There is a value if you let the country manage its game.

We are sticking our nose in somebody's business, very frankly. We are not going to solve a problem you are trying to seek, and I have been a sponsor of saving the elephants with conservation for years, but what you are going to do in this so-called department—the Fish and Game Department has gone wacky on me—is, in fact, is, in fact, going to fail to save these elephants. Shame on you.

Dr. FLEMING. The gentleman yields back.

Mr. DeFazio I believe is next on that side.

Mr. DEFazio. Thank you, Mr. Chairman.

I think what we need to keep in mind here is we need new solutions. You know, what worked in 1988, 1989, and the contributions of sport hunting to these countries was very valuable. Today a sport hunter with a bolt action rifle is no longer a deterrent to



large groups of crazed militants slaughtering elephants with automatic weapons and poison.

Times have changed. So we cannot say that sport hunting is the solution. It is still incredibly valuable to the local communities and potentially to the nations involved. That is good. That gives them some incentive, but the other thing was it was actually a deterrent value because you had people out there who were similarly armed or maybe with ratty weapons who were poaching the elephants.

Now it is organized, armed fanatic militants, which really needs some sort of military or paramilitary response on the part of some of these governments, and that is perhaps something to be discussed in another committee at another time in terms of what the U.S. appropriate role is in facilitating that.

But we have to stop talking past each other here and we have to find some viable solutions. We have to find viable solutions that go to people who have had things in their families for generations. Mr. Young was his usual dramatic self, but the point here is that I read of one case where someone was trying to bring in a piano from Japan. You know, apparently we have now resolved that issue individually, but there are problems here with the way this rule was promulgated and its impact, but we also want to send the strongest message to the world that we are not going to tolerate this.

Perhaps the gentleman whom I mentioned earlier should have gotten a longer sentence and a bigger fine, but that is another issue.

Are we researching a way for a test? I mean, we can carbon date stuff pretty exactly. We have all sorts of things out there, you know, a mass spectrometer. Is there not some researching test that would make it easy for people to prove age?

Mr. DREHER. We are researching tests. I mean, unfortunately the ones you mentioned are among the ones that we can draw upon, and they are destructive and they are expensive. They are destructive in the sense that they require some sample, some portion of the item to actually be destroyed in order to chemically analyze it, and they are not foolproof, but we can use them effectively to date things.

Right now the tests we are using to date ivory cost us \$1,000 per test, which is not too high when you have a major criminal prosecution, but it is very high for field agents to use, and it requires the consent of the property owner to permit it to be tested because it does involve some sampling.

So there are limits to what we can do. We are, unfortunately, stuck in our law enforcement effort by our inability to distinguish readily between fake antique ivory and real antique ivory, and that has been used around the world and in this country by the criminals. They know this. They have whole factories that are set up to do this, to artificially age ivory, to carve it so that it looks like it is exactly like a tribal carving from 100 years ago, and then to bring it into this country.

That is exactly what Victor Gordon was doing. He was sending instructions back to his factories in Africa, saying make it look like——

Mr. DEFAZIO. Where was the factory located?

Mr. DREHER. It was from East Africa. I do not know where though.

Mr. DEFAZIO. OK. Did the U.S. Government take any action to pursue that with the government involved, whichever government it was, to close down this factory?

Mr. DREHER. I am not aware of what we have done with that.

Mr. DEFAZIO. See, we need to be reaching overseas in a very strong way, and I mean, that seems to me kind of minimal if we have finally got a line on an illegitimate factory mass producing this stuff out there. We should be using every tool we have to go after that and go after that country and close that stuff down and doing that around the world in addition to what I mentioned earlier, which are some trade sanctions against these countries, that little country and the big countries that are overtly importing.

I have to say we just have to begin to think out of the box and come up with a creative solution. I mean, as we sit here and talk past each other, I think it is four elephants an hour that are being slaughtered. So we've been here more than an hour. Four more elephants unless they did another poisoning today and killed many dozens or hundreds, who knows?

So this is something that begs a solution instead of a partisan brawl, which is very usual for this committee.

With that, Mr. Chairman, I yield back.

Dr. FLEMING. The gentleman yields back.

Mr. Duncan, for 5 minutes.

Mr. DUNCAN. Thank you, Mr. Chairman.

Mr. Dreher, do you hunt?

Mr. DREHER. I do not, sir.

Mr. DUNCAN. So I guess you are a fisherman. You trout fish. You big billfish.

Mr. DREHER. I have fished, yes.

Mr. DUNCAN. You have been, but are you active in that at all?

Mr. DREHER. Not today, but I have been.

Mr. DUNCAN. OK. Are you a member of Ducks Unlimited, National Wild Turkey Federation, Safari Club International, any of those conservation organizations?

Mr. DREHER. I am not.

Mr. DUNCAN. OK. So let me just ask you this. Are you aware of the role that hunters play in conservation?

Mr. DREHER. I am very aware of it.

Mr. DUNCAN. OK. Hunters have contributed millions upon millions upon millions of dollars for conservation efforts to restore the white tailed deer, the wild turkey, the trout, the Billfish Association for billfish, and the oceans. Hunters play a part of conservation.

Let me point out the *New York Times* article, and I am not one to tout the *New York Times* on a regular basis, but the *New York Times* had an article, "The Wrong Way to Protect Elephants." In this article the authors state that "the new Obama administration policies would merely cause the price to balloon and the black market to flourish, pushing up the profit potential of continued poaching. These new rules proposed by the Fish and Wildlife Service may well end up doing more harm than good to the African elephant."

Why is the *New York Times* wrong?

Mr. DREHER. I mean I have to say for what it is worth the approach we are taking for law enforcement in trying to interdict illegal contraband coming into this country is the same approach we take for other forms of illegal activity.

Mr. DUNCAN. Law enforcement is having a hard time in the African countries doing conservation because they do not have enough manpower, and this is going to hurt their economic ability to actually hire more law enforcement officers to combat poaching.

American hunters traveling to Zimbabwe or Tanzania, other places, they are actually catching a lot of these poachers out there in the field, and guess what else they are finding. They are finding the snares, and they are dismantling the snares and destroying those because the countries do not have the ability to hire the number of officers necessary.

The money that goes into the economy from active hunting on the African Continent supplies the money and the resources for these countries to have the conservation officers that can actually do the job. Your policies will do nothing but curb the ability of American hunters to actually travel to Africa and provide those dollars that those economies desperately need.

I do not believe there is enough money in the conservation effort to actually pump into those countries to provide those dollars and to provide those officers, those conservation officers.

Would you not agree with me that unless the range states are effectively able to stop poaching, African elephants will simply continue their march toward extinction?

Mr. DREHER. I would agree with you.

Mr. DUNCAN. OK. So we are on the same page there.

In the final analysis, you can close the U.S. market and destroy the value of millions of legally obtained ivory products, but unless we stop poaching, it is very unlikely that those who traffic in these illegal wildlife will simply find another market. You are already seeing an emerging market in China.

Will this ban stop poaching of elephants in Africa?

Mr. DREHER. Not by itself, but this ban is only part of the effort that my Service and that of the U.S. Government is engaged in to try to combat this problem. This ban is one important strand of that which involves law enforcement to crack down on the criminals involved.

When you put someone like Victor Gordon in jail, admittedly only for 2½ years, that is a very significant deterrent to other criminals who are—

Mr. DUNCAN. Well, let me stop you right there. I will tell you who you are targeting. I have had numerous cases where people have lawfully obtained African ivory through hunting efforts with valid tags and valid transportation permits to bring them into the country, and they have been jerked around by this agency trying to bring that ivory in. That is who you are targeting.

You are not targeting the illegal ivory trade in this country or the world. You should work with the Government of China. You should work with the countries that are actually stockpiling a lot of ivory.

I will tell you what we need to do. We need to work with countries like Tanzania and Zimbabwe and allow hunting, allow conservation efforts through hunting, allow more permits and allow these guys to actually set quotas, allow X number of elephants to be harvested annually, and allow that money to actually funnel to the communities that have crops destroyed because the elephants are destroying homes and crops and communities. Actually provide the dollars so they can have the conservation officers out there to stop this poaching.

You are exactly right. Poaching is terrible. The numbers do not lie at all. But it is not through hunting and it is not through some, and I will say, asinine ban by the Fish and Wildlife Service that is politically driven.

Now, with that, Mr. Chairman, I yield back.

Mr. DREHER. I would be happy to respond. I have not so far been able to respond to any of the allegations.

Dr. FLEMING. The gentleman has already yielded back.

Mr. DUNCAN. That was my time. Thank you.

Dr. FLEMING. Ms. Shea-Porter.

Ms. SHEA-PORTER. Thank you very much.

And please feel free to respond.

Mr. DREHER. First I need to say that the Fish and Wildlife Service fully recognizes the importance and the value of sport hunting in the history of conservation and in the current conservation efforts around the world. Sport hunters in this country have been the backbone of conservation of wildlife in this country, including the backbone of support of the programs that the Fish and Wildlife Service administers. They are an important factor in conservation worldwide.

We have a special situation in the two countries that are at issue here. That is that under our regulation we must make a finding that sport hunted trophies or that allowing the import of sport hunted trophies will enhance the conservation of the species, and we have been able to make that for a number of countries. We have no concern with hunting of elephants in South Africa or in Botswana. Those are countries that have well regulated programs.

We have significant concerns about Tanzania. The population of wildlife of elephants in Tanzania is crashing, as has been recognized by CITES and by world authorities.

There is mounting concern that government authorities in Tanzania are unable to manage or protect their wildlife, and it is no longer clear to us that the dollars that American hunters bring into that country are used in any meaningful way for the conservation of elephants.

Ms. SHEA-PORTER. Thank you. Thank you.

Mr. DREHER. OK.

Ms. SHEA-PORTER. I am glad you cleared that up.

I do have a couple of questions here, and I am sorry. I am going to make a mistake with your name, Mr. Tendaupenyu.

Could you please tell me first of all who paid for your trip here?

Mr. TENDAUPENYU. The Zimbabwe Parks and Wildlife Management Authority.

Ms. SHEA-PORTER. The Zimbabwe government?

Mr. TENDAUPENYU. The Parks and Wildlife Management.

Ms. SHEA-PORTER. OK. Thank you.

And has your population of elephants been going up or down?

Mr. TENDAUPENYU. It is actually on the—on the—

Ms. SHEA-PORTER. Going down. So—

Mr. TENDAUPENYU. On the increase, ma'am.

Ms. SHEA-PORTER. So in spite of the hunting and the conservation and the income coming in and your management efforts, your population is dropping.

Mr. TENDAUPENYU. No, no, ma'am. The population is on the increase.

Ms. SHEA-PORTER. By how much?

Mr. TENDAUPENYU. I can give you the figures.

Ms. SHEA-PORTER. OK. I would like to see those. We will do another round.

I also want to know, you indicated that you also received some income from tourism, right? But you did not say what percent was from eco-tourism. How hard have you worked on that? And is that something that you see in your future to be able to perhaps bring more income and help the people in the area and help protect the elephants?

Mr. TENDAUPENYU. OK. Tourism is rather suppressed right now. So the income realized from that is quite low compared to that revenue stream that I talked about from—

Ms. SHEA-PORTER. Do you have an aggressive program for it?

Mr. TENDAUPENYU. We are doing our marketing. There is an aggressive program for that, yes, ma'am.

Ms. SHEA-PORTER. OK. And what percent of the income that comes in for your program is from tourism right now?

Mr. TENDAUPENYU. I do not have the figures readily available right now, but those can be available to you, ma'am.

Ms. SHEA-PORTER. OK. Is that going up or down?

Mr. TENDAUPENYU. Tourism figures, slightly on the increase now in recent years.

Ms. SHEA-PORTER. On the increase.

Mr. TENDAUPENYU. Yes.

Ms. SHEA-PORTER. All right. So your tourism is on the increase, and your number of elephants, the population, is on the increase and you will get back to me about the number.

Mr. TENDAUPENYU. Yes, ma'am.

Ms. SHEA-PORTER. OK. Thank you.

And I have a question. Now, you said how many tons of ivory in 2013?

Mr. DREHER. That we have seized?

Ms. SHEA-PORTER. Yes.

Mr. DREHER. Well, in the one case we have been talking about it was one ton of African ivory, new ivory. There was a seizure of two tons at JFK Airport in 2012.

Ms. SHEA-PORTER. How many elephants is that?

And can you take a guess of how many elephants are being killed just for that, not for any other reason, but for the ivory?

Mr. DREHER. We are converting kilograms into pounds. I am sorry. We can get back to you with an answer for that, but the tusks can weigh 100 pounds or 80 pounds. So you have some sense

that there were a large number of individual elephants that had to have been killed in order to supply three tons.

Ms. SHEA-PORTER. Right. OK. Thank you for that.

Now, is there some kind of compromise here? You know, listening to both sides, and by the way, I come from a State where they hunt and they fish. I live in New Hampshire, and it does not mean that you do or you do not. That does not make any statement about what kind of person you are, about whether you care about the environment or do not care about the environment. I am not really sure where that questioning was going, but let me just say that I cannot understand why we cannot find something that helps, and what would help your government to continue promoting conservation and still be able to protect your elephant population?

I cannot understand why it is like either/or when you are talking to us about your country and your situation in Zimbabwe. Why is it either/or? Either they have to hunt at a high level and we have to just stay out of it or from what you said everything will just fall apart, that the land will be taken, that the elephants will be killed, that there will be more mayhem.

I was not really following your argument.

Mr. TENDAUPENYU. OK, ma'am. My point was ZimParks does not rely on the government for funding, and it has to generate its income from sustainable conservation efforts. We have limited donor support, and this is from our wildlife. We believe that wildlife should pay for itself.

And from that, that is where we are looking at that. It should. The revenue that we want to generate that protects the wildlife comes from the wildlife itself. That is the principle.

Ms. SHEA-PORTER. But it seems to me that if you are experiencing this great loss and this is a treasure for your country and that you will actually—do you want me to do another round?

Dr. FLEMING. Unfortunately we have another large panel and then we have a vote in about an hour. So unfortunately, we will just have to submit questions for the record.

Ms. SHEA-PORTER. OK, and could I please have the answers to the questions that I asked?

Mr. TENDAUPENYU. Those will be answered.

Ms. SHEA-PORTER. Thank you. Thank you. I will look forward to seeing them.

Mr. TENDAUPENYU. Yes.

Ms. SHEA-PORTER. Thank you.

Dr. FLEMING. Thank you. The gentlelady yields back.

Mr. McAllister, for 5 minutes.

Mr. McALLISTER. Thanks, Chairman.

First let me just say that I and all of this panel believe that we should protect the elephants. No one wants to see them become endangered and not be able to enjoy God's creation that we all watch wildlife shows, go on safaris and all that.

But when it comes to the question she just asked about the middle ground, I believe you just said it. The efforts are working. You said the elephant population is on the rise in Zimbabwe; is that correct?

Mr. TENDAUPENYU. That is correct.

Mr. MCALLISTER. So I mean, it seems like it is working. So here is the issue I have, and I want to hear from Mr. Dreher on it.

A few things: one, back in 1978, the amendment to the Endangered Species Act clearly established an exemption for the import and export and sale of antique items that are at least 100 years of age. In fact, a former Congressman from my State, David Treen, stated, "My proposal was adopted in Committee by voice vote. All the witnesses at the hearing supported the concept of exempting antiques since the purpose of the Act is to protect living species rather than those that lived 150 years ago."

So here is my question: are you not trying to rewrite the statute and congressional history?

Mr. DREHER. Congressman, no, not at all. We have, in fact, recently just clarified the way in which we will interpret and enforce the antiques exception. We certainly fully recognize the importance of that exception to the congressional intent behind the Act.

So there was no restriction here under the ESA that will affect legitimate antiques that meet the statutory definition.

Congress also passed the African Elephant Conservation Act, and that imposed an absolute moratorium on the import of African ivory without regard to age, absolute moratorium on the import of African ivory. We are administering that in as flexible a way as we can to recognize legitimate needs, such as those of householders who are bringing in goods as part of their household, musical instruments, orchestras, traveling exhibitions.

But it is Congress in that Act which has banned all imports without regard to age. Now, we—

Mr. MCALLISTER. But you are putting the proof upon us as the citizens to prove it is an antique or not.

Mr. DREHER. Well, quite frankly, the proof, the burden is on us as citizens to prove our ownership of property in many circumstances, to prove that our claims of exemptions from income taxes. I mean, it is not unusual that we would expect someone claiming the benefit of an exemption to prove lawful possession of an item that is claimed to be exempt.

Mr. MCALLISTER. Correct. Well, I just do not understand why are we not spending more efforts on going after the poachers, going after the criminal trafficking syndicates, the terrorist organizations instead of trying to go after the import and export of antiques.

I have a few pictures here that kind of explains what you are going after and what it is going to do, and I got these off of Sotheby's Web site, and I will give them to the Chairman. It just shows what little bit of ivory is in some of these antiques that are being sold, and these are just your everyday antiques. I mean, we are talking a minimal amount of ivory.

So let me explain what my opinion, what this is going to do. What you are trying to do is take countries like Zimbabwe and all and take the ability to govern themselves, the ability to conserve their animals out of their hands, and what you are going to do is you are going to create a black market now to where more new ivory is being poached to create more antiques like this because the black market sells more than legal markets ever sell.

I think we should be going after those who are violating the laws. I agree with Congressman DeFazio. That punishment is not

severe enough for those who are poaching ivory. I think there ought to be another statute on top of it that says whenever you try to imitate an antique there is even a more harsh punishment to go along with the poaching.

I believe there is common ground that we can find, and as to allow countries that are increasing their elephant habitats, but yet also make sure that we are making people pay the price for doing and make sure that we go after these terrorist organizations that are just slaughtering elephants and that is by assisting these countries with it.

I do not believe in penalizing people that truly are doing justice and being honest and making life harder on them to live in this country and to do just what they enjoy, whether it be bird watching or antique collecting. That is not what our role is to do, to make life harder on them.

Our goal is to protect the animals and support other countries in their ability to protect, and I will let you answer that, but I appreciate you taking the time to come today and testifying for us.

Mr. DREHER. Thank you, Congressman.

And I certainly agree with the fact that we need to address all of those things. We cannot address this wildlife trafficking crisis without engagement with the range countries overseas, without trying to reduce consumer demand and also without trying to build partnerships with foreign countries and partnerships with interests and stakeholders like the sport hunting community.

The Fish and Wildlife Service has a very good relationship with the sport hunting community in this country and cherishes that. We have shared conservation goals for decades, since the foundation of the Service.

Dr. FLEMING. I am sorry. We are going to have to keep moving on if we are going to hear from other witnesses.

Mr. Southerland, 5 minutes.

Mr. SOUTHERLAND. Thank you, Mr. Chair.

I do not even know where to start really. I am astonished. Mr. Dreher, I am going to direct my comments first to you.

I am amazed. I notice here that you had spent time in the Justice Department before you came to the Wildlife Service. I am rather astonished by your belief that it should be the burden of proof by the American citizens to prove something that is perhaps in many cases unprovable. You know, I hope that is not a philosophy that you gained while in the Justice Department. That is terrifying to think that that might be a contagious thought process there. But we certainly are seeing evidence that that might be germinating in other areas throughout the Justice Department.

I am blown away by people's assertion here that you've got it all figured out when it comes to our species. We know the red snapper in the Gulf of Mexico that are being destroyed by the thousands by artificial reefs being removed from the oil rigs, idle iron, and really these efforts, this government could care less about the fish because they just want to make sure that humans cannot pick up those fish once they have been destroyed. It has nothing to do with the fish.

I am curious though as to what I am hearing. We talk about Kenya and Zimbabwe and what is going on, and, sir, I know you



are here. You came a long way obviously to testify. I am most interested by your comments that your elephant population through the systems you have in place is on the rise, and I just want to make sure that that is stated because I think some on the other side of the aisle just were hoping and praying you would say that your elephant population is on the decrease. But yours are, in fact, on the increase, correct?

Mr. TENDAUPENYU. They are on the increase.

Mr. SOUTHERLAND. I find it interesting that Kenya outlawed hunting in 1973, and yet their herds are absolutely just the opposite of yours. They are continuing to decline, and Kenya cannot even protect a 50-year-old bull from being slaughtered very, very recently.

Tell us, sir. You came over here to testify today. You know, we have already had Mr. Dreher admit that the Wildlife Service did not alert your government prior to suspending the importation of sport hunted elephant trophies from those countries.

Does it irritate you or do you find it bothersome that our government, who seems to be swimming outside of its lanes here, did not even communicate with you?

Mr. TENDAUPENYU. Very much so, sir.

Mr. SOUTHERLAND. Very much so.

Mr. TENDAUPENYU. Yes.

Mr. SOUTHERLAND. OK. Could you expound on that? I mean, do you feel like we are being a little meddling into something that is pushed rather by ideology rather than good conservation practices?

Mr. TENDAUPENYU. Indeed, we base our efforts or whatever we do on scientific evidence, and if it had that scientific evidence to substantiate, at least it would make sense.

Mr. SOUTHERLAND. Right. So you're saying that absolutely to my question and that you need good scientific data, and it needs to make sense. I know some people cannot perhaps hear your answers, and I want to make sure that I help get your good common sense message out because I can tell you in this room on a weekly basis we see insanity here, insanity.

[Laughter.]

Mr. SOUTHERLAND. OK? We do. We do. And so we keep talking about good data. There are people on the other side that could care less about good data. I can tell you we certainly are not using good data in the Gulf, and we are making sure that we do not have good data because we do not want to see what that data proves because then we would have to make common sense, self-evident practices that would be good for freedom as well as good for the stock we claim to care about.

Is there any reason imaginable why the Service did not reach out to you? Can you imagine any good reason why they did not do so and give you that professional courtesy?

Mr. TENDAUPENYU. No. We actually fail to understand why that happened.

Mr. SOUTHERLAND. You fail to understand that.

Well, Mr. Dreher, with the time we have remaining, can you address—

Mr. DREHER. I would be very happy to.

Mr. SOUTHERLAND [continuing]. Why he fails to understand?

Mr. DREHER. I would be very happy to.

Mr. SOUTHERLAND. You all have been rude really.

Mr. DREHER. We asked for information in 2007, and we have—

Mr. SOUTHERLAND. You asked for information.

Mr. DREHER. Yes, and we have been in contact with them every year since at international—

Mr. SOUTHERLAND. And contact, did that contact—

Mr. DREHER. Personal, face-to-face contact. There is no question—

Mr. SOUTHERLAND. Right.

Mr. DREHER [continuing]. That they understand we had concerns about their program.

Mr. SOUTHERLAND. Can you provide that proof to us?

Mr. DREHER. I can and I will be happy to. Let me also say that we acted based on International Union of Conservation of Nature data showing that the population of elephants in this country may have dropped by as much as 50 percent—

Mr. SOUTHERLAND. Right. And I hope that organization—

Mr. DREHER. So we have very different—

Mr. SOUTHERLAND. Reclaiming my time, sir, I hope that I do not have—I hope they do not share your beliefs that the American people or anybody in this world must prove by documentation something that they inherited maybe from a grandfather or great grandfather. What a dangerous, dangerous belief you have, sir.

I yield back.

Dr. FLEMING. The gentleman's time is depleted.

Mr. Daines, you are recognized.

Mr. DAINES. Thank you, Mr. Chairman.

So I represent the State of Montana, and I can tell you, lawfully owning firearms is a very important part of our heritage, including many which would contain pre-ban ivory. The Director's order, as best we can tell, though well intended was issued without consideration of law abiding citizens who trade, sell, or own firearms containing elephant ivory or enthusiasts for the music and arts who use their ivory containing instruments to enrich many people's lives.

I think we are all in violent agreement here today that we want to make sure we stop poaching and protect the African and Asian elephants. Many of us are active sportsmen and women, and as Congressman Duncan mentioned, hunting oftentimes is the best way to preserve a species, and I think we have seen that example certainly from our witness here today.

But I was made aware recently that the Budapest Orchestra was coming into JFK Airport here on June 3. Stefan Englert, the Executive Director of the orchestra, said in an interview that the ensemble had taken steps to comply with new rules governing ivory. The orchestra had documentation for each bow, including photographs, letters from the bow makers stating they contained no banned ivory.

But even with this documentation the bows were not allowed to be used. My understanding is that one person in the ensemble brought two identical bows from the same maker, same materials. One was allowed to be used; the other was not.

In fact, doing a little further research, in April an orchestra came from Austria to perform at Carnegie Hall, and they were stopped from getting their bows through, and it was through the intervention of the officials of the Carnegie Hall that at the last minute got the bows through because they were going to cancel the concerts because of the harassment they were receiving here in trying to get the documentation, which they all had, through the system.

Given the limited resources of Fish and Wildlife Service and the enormous, enormous poaching problem in Africa, is confiscating bows from the Budapest Orchestra really the best use of taxpayer dollars? Mr. Dreher.

Mr. DREHER. First, I think for what it is worth, my understanding is that the issue of importation of artifacts, musical instruments that contain CITES listed material is one that has been with us for a long time. I mean, the incidents you described would have occurred exactly the same way last year or the year before had they attempted to enter the country with musical instruments that did not have proper CITES documentation.

Mr. DAINES. They are referencing, by the way, they are referencing the May 12 edict that came out in the Federal Register Notice was the issue here coming through JFK.

Mr. DREHER. My understanding is that this was an issue of CITES documentation, and sort of the unhappy truth is, and we are trying very hard to be sensitive to the legitimate interest of musicians, the legitimate interest of orchestras and of traveling exhibitions. That is, in fact, why we have created exceptions to what otherwise would be the implementation of an absolute ban on the import of ivory under the congressional act to reflect that, but they still need to provide adequate documentation for CITES, and that has always been an issue in terms of importing material into the country. There is going to be a check to see whether they have that.

We are working continually with the interested stakeholders that you have mentioned to try to figure out ways that we can respect their genuine needs to be able to perform with and import into the country for performance purposes instruments that may contain ivory or other CITES material.

Mr. DAINES. Right.

Mr. DREHER. And we will continue to work with them.

Mr. DAINES. And we have two examples in the last 90 days, one in April and one in the first week of June, where renowned orchestras with what they thought was all the proper documentation were stopped, nearly canceled the concert at Carnegie Hall, and through a diving catch here with the Budapest Orchestra they were able to get through.

But I think this is an example of the concerns we have of the regulations. They just do not have common sense. They are going to stop law abiding men and women, American citizens and citizens coming in perhaps in the performing arts.

The challenge is here of wanting to move forward here in a common sense fashion. These regulations, I think, seem a bit arbitrary and difficult to follow and are not going to ultimately get to the bottom of this, which is, we are trying to protect and save these African elephants.

Mr. DREHER. I understand your concern, and I understand the concern about what the highest priority should be. It certainly is not our highest priority to do this, but we are nonetheless responsible and the Border and Customs Patrol people are responsible for monitoring imports into the country.

I do think the underlying issue that we need to grapple with is that it is precisely the trade in these artifacts, artifacts made of wildlife that is killing wildlife, and there are circumstances as you said where sport harvest of wildlife is an essential part of a well-managed conservation program, and we recognize that and work closely with folks all the time.

There are other circumstances where the marketing of artifacts made of endangered species drives them toward extinction, which is why the general rule under the Endangered Species Act is there cannot be any trade in endangered species.

Mr. DAINES. Just the concern we have, and I will conclude my questioning here, is just that you have law abiding musicians and so forth here that are caught right now by these regulations that are wreaking havoc on law-abiding citizens and not really getting to the core issue here, which is how do we stop the poaching and the killing here of these African elephants illegally.

Thank you.

Dr. FLEMING. That concludes the first panel, but before I release the first panel I want to take a moment of the Chairman's privilege here for a couple of reasons.

First of all, Mr. Tendaupenyu, you have come a long way, and I want to be sure that you have a last word with us here today because I think what you have to say is very important.

But I want to frame the issue carefully for everyone. There is not a single person on this dais, in this Congress, I suspect, or in this room that wants anything but the sustainability of our elephant population. There is no one here. I mean, we all basically want the same outcome.

Where we differ is in how we apply certain rules and principles and we receive that outcome. But we have two problems, really two issues.

Number one is the fact that many people have ivory, ivory musical instruments, ivory art, other forms of ivory that are very old. It is simply impossible to have the documentation necessary. This is not the same as the IRS. When you incur an expense, you have a paper trail, and you know that that is going to be a deductible expense. This is not the same thing. It is not equivalent, and it is inappropriate, in fact, I think unconstitutional to require someone to be guilty until proven innocent. And so that is something we have to deal with in an outright ban.

The other part of this is, and I want to make sure everyone here is clear on it, the money that is necessary in Zimbabwe to protect the elephants comes from the hunters themselves. When the hunters leave, the elephants die. The elephants die why? Number one, if a herd grows, it runs out of sustainability. It does not have the habitat. So some are going to starve. Some are going to go through a painful death.

Mr. LOWENTHAL. Mr. Chairman, we have another panel, and—

Dr. FLEMING. I understand that.

Mr. LOWENTHAL [continuing]. And we are never going to get to it.

Dr. FLEMING. But I want to be sure that this gentleman, and as Chairman it is my privilege to do this, and so in terms of Zimbabwe and the protection of the elephants, what has been working and increasing the herd has been simply allowing hunters to take a certain number of trophies and then also allowing for growth of that herd and then last, of course, the fact that they protect against the poachers.

So I want to give you the opportunity to kind of encapsulate that and make sure we understand the issue when it comes to Zimbabwe.

Mr. TENDAUPENYU. Thank you, Mr. Chairman.

I think in my closing statement I said it exactly as it is. We are saying that the proceeds from hunting actually contribute toward the conservation efforts. It also incentivizes the elephants toward the communities, and once this aspect is removed, people will no longer treasure these and, hence, it will lead to increased poaching because less money goes to conservation, less protection, and this will result in the decimation of our wildlife populations.

Dr. FLEMING. I thank you for that, sir, and as a result we are not going to have time for a second round. We would love to have one. So we will ask you to step down and we will ask the next panel to step up, and we will hear more testimony on this important issue.

OK. As our panel moves into place, I want to go ahead and begin introductions because we are limited in time.

First we have today Mr. Ian Somerhalder, President of the Ian Somerhalder Foundation; The Honorable David J. Hayes, Vice Chair, Federal Advisory Council on Wildlife Trafficking; The Honorable Jack Fields of Texas; Ms. Arian M. Sheets, Curator of Stringed Instruments, National Music Museum; Mr. Matthew Quinn, Quinn's Auction Galleries; and Air Force veteran Captain Scott O'Grady.

Your written testimony will appear in full in the hearing record. So I ask that you keep your oral statements to 5 minutes as outlined in our invitation letter to you under Committee Rule 4(a).

I think you have heard the instructions on the microphone. So we will not go forward with that and dispense with it.

So, Mr. Somerhalder, welcome to the subcommittee, and you are now recognized for 5 minutes.

#### **STATEMENT OF IAN SOMERHALDER, PRESIDENT, IAN SOMERHALDER FOUNDATION**

Mr. SOMERHALDER. Thank you, Chairman, and good afternoon, Chairman Fleming, Ranking Member Lowenthal, and members of the subcommittee.

My name is Ian Somerhalder. I am an actor and President of the Ian Somerhalder Foundation, which is a not-for-profit organization that is dedicated to empowering, collaborating and educating with people to help them collaborate and impact the planet positively and its creatures.

I am grateful to say that I was also just named United Nations Goodwill Ambassador to their Environmental Programs.

I would like to thank the subcommittee for giving me the opportunity to speak here today, and I would like to especially thank Chairman Fleming, who represents my home State of Louisiana. So thank you, sir.

I am honored to be here, able to speak today to the need for redoubled efforts to protect rapidly declining populations of African elephants. I appreciate and admire the work of the Wildlife Conservation Society, which continues to identify opportunities for me to have an impact on U.S. Government conservation actions.

Some of you might remember my last testimony from 3 years ago when I first had the honor of addressing this subcommittee in support of Multinational Species Conservation Funds, MSCF. These funds play a critical role in saving wildlife populations from many of the world's most iconic species, including the African elephants, which are the topic of our hearings today, by supporting programs that control poaching, reduce human wildlife conflict and protect essential habitats.

The MSCF are due for reauthorization, and I encourage the subcommittee to take up the bipartisan bills to extend these important programs. I would also urge the subcommittee to extend the MSCF semi-postal stamp enabling the public and empowering them to provide funding for anti-poaching activities.

So as you all know, I am not a policy expert or a park ranger. I have been fortunate to have success as a—well, some success as an actor, and with that comes what I see as a privilege.

Dr. FLEMING. You are too humble.

Mr. SOMERHALDER. But I see it as a privilege ultimately to be able to raise awareness about issues that I am passionate about that need to be raised.

So in my previous testimony I called attention to several global priority species, but today the plight of the elephant demands our undivided attention. There is really no word you can use to describe the situation of elephants in the wild today. They are simply in crisis.

Quite frankly, there is no way to even overstate how catastrophic the last few years have been for these elephants because now they are under threat as they have never been before by agents of transnational crime rings and terror organizations who are mutilating helpless animals and murdering park rangers on a scale not seen since the international ivory ban went into effect.

The most current studies done by the Wildlife Conservation Society show that in 2012 alone poachers killed approximately 35,000 African elephants for their tusks, and Central Africa has lost more than half of their elephants in the last decade.

So at this rate the African forest elephants will be extinct in 10 years, and the East African Savannah elephants will be right behind them.

So what will the world look like without elephants? I mean, I think the question that we should ask ourselves is: how can we actually justify allowing this species, which is considered as intelligent as dolphins and great apes, to go extinct?

The situation is dire. Kenya Wildlife Service park rangers describe the efforts against poachers as a war that they are losing, and also let me add that there is growing evidence that organiza-

tions like the Lord's Resistance Army and al-Shabaab fund terrorist attacks, recruitment efforts, guns and explosives with the proceeds of illegal ivory sales.

There is a silver lining, however. There is ample evidence that conservation efforts have a significant positive deterrent effect when protective forces are adequately staffed, trained and armed. The number of forest elephants, the most threatened subspecies, are seven times higher when they are protected.

The support of the U.S. governmental agencies, governmental agencies like Fish and Wildlife Service and USAID, play an essential role in supporting conservation forces internationally. Sadly, the United States is also an important market for wildlife products.

In 1988, this Congress led the world by banning the commercial ivory trade, and it is time for us to take on the mantle of leadership once again. Continued vigilance by the U.S. Fish and Wildlife Service is critically important and also lets the international community know that we are serious, 100 percent serious about eliminating demand for illicit ivory products.

This is an issue I know that the American public deeply cares about because when I talk about this on social media, the retweets and favorites on Twitter number in the tens of thousands, and on Facebook hundreds and hundreds of thousands. So we know that this is important to the people.

The outpouring of emotion is strong, and the message is clear. We, the people, look to you to enforce tough laws and build global partnerships to address wildlife crimes. As Jacques Cousteau said, we protect what we love. So on behalf of the Ian Somerhalder Foundation, I urge the subcommittee to work with the U.S. Fish and Wildlife Service and the Administration to quickly move ahead on tightening the ban on commercial ivory trade so that the United States can once again show its leadership in saving the African elephant.

Thank you for this opportunity to testify, and I look forward to any and all of your questions.

[The prepared statement of Mr. Somerhalder follows:]

PREPARED STATEMENT OF IAN SOMERHALDER, PRESIDENT, IAN SOMERHALDER  
FOUNDATION

Good morning Chairman Fleming, Ranking Member Sablan, and members of the subcommittee. I am Ian Somerhalder, an actor and founder of the Ian Somerhalder Foundation, a not-for-profit organization dedicated to empowering, educating, and collaborating with people to help them positively impact the planet and its creatures. I was also recently named a United Nations Goodwill Ambassador for their environmental programs.

I would like to thank the subcommittee for giving me the opportunity to speak here today and I'd like to especially thank Chairman Fleming, who represents my home State of Louisiana. I am honored to be able to speak to the need for redoubled efforts to protect rapidly declining populations of African elephants, wild habitats and wildlife. I appreciate and admire the field-based and policy work of Wildlife Conservation Society who continues to identify opportunities for me to have an impact on U.S. Government conservation actions.

Some of you might remember my testimony from 3 years ago, when I first had the honor of addressing this subcommittee in support of the Multinational Species Conservation Funds (MSCF). These funds play a critical role in saving wild populations of many of the world's most iconic species, including the African elephants that are the subject of today's hearing, by supporting programs that control poaching, reduce human-wildlife conflict, and protect essential habitat. The MSCF are due for reauthorization, and I encourage the subcommittee to take up the bipartisan

bills to extend these important programs—H.R. 39 and H.R. 1329, offered by Mr. Young and Mr. Pierluisi, two highly respected members of this subcommittee, and H.R. 1328, offered by Congressman George Miller. I would also urge the subcommittee to pass H.R. 262, which would extend the MSCF Semipostal Stamp, enabling the general public to continue to voluntarily provide funding for anti-poaching activities through purchases of the stamp.

As you all know, I'm not a policy expert or a park ranger. I come here today as a grateful amplifier representing a vast, global, interwoven tapestry of voices deeply invested in the future of our environment and its creatures. Because of our united and unending reverence for all vessels of life, the threat of ongoing habitat destruction and wildlife poaching is painfully all too real to us. I spent my childhood entangled with the raw, majestic ecosystem of rural Louisiana. From a very young age, my family instilled in me our obligation to protect this delicate balance. Even beyond that, they illuminated how there was no distinction between the ecosystem and myself. What I had perceived as "outside" was also inside. When the Gulf Oil Spill devastated the bayous I know as home, I became aware of just *how* true this really is. Refusing to surrender to a harrowing sense of vulnerability, I united with an international span of changemakers ready to heal and restore the planet and its creatures. These changemakers are the IS Foundation family. Armed with compassion and equipped with a vast array of actionable skills, we knew our interdependent collaboration was necessary to reconcile both the environment we see as external as well as within. This understanding of our environment's ultimately borderless and symbiotic nature is pivotal to the work of ISF today.

I'm grateful and fortunate to have achieved success as an actor, and with that comes what I see as the privilege of being able to raise awareness about issues I am passionate about. As the founder of the Ian Somerhalder Foundation, I have committed my time and financial resources to advancing environmental causes, land and wildlife conservation, animal welfare and the empowerment of our youth. In my work with oceans, I came across a quotation that rings particularly true to me by the legendary explorer and documentary filmmaker Jacques Cousteau, who said, "People protect what they love." It is with that mindset that I am motivated to share my love and knowledge of the natural world with the American public and with all of you here today.

In my previous testimony, I called attention to several global priority species, including tigers, rhinoceroses, marine turtles, and the great apes. Today, I'd like to focus on the plight of elephants, both in Asia and Africa.

There's really only one word that can describe the situation of elephants in the wild today; they are in *crisis*. The characteristics that make elephants so iconic around the world—their beauty, majesty, and power—are precisely what make them so desirable to poachers. Quite frankly, there's no way to overstate how catastrophic the last few years have been for elephants. They are now under threat as never before by agents of transnational crime rings and terrorist organizations, who are mutilating helpless animals and murdering park rangers at a scale not seen since the international ivory ban went into effect.

For these criminals, the black market in illegal ivory is no different than that of drugs, weapons, and counterfeit goods—it's just more lucrative. Today, numerous research organizations and nonprofits report that the illegal wildlife trade is the fourth largest in the world, more sizable than the trafficking of small arms, diamonds, gold, and oil. In a study<sup>1</sup> released by the Stimson Center in January of this year, illegal wildlife trafficking was estimated to be worth \$19 billion. The same study reported that rhino horn (which is considered analogous to elephant tusks) is now worth about \$50,000 per pound, more than gold or platinum.

As a rule of thumb, wildlife is most vulnerable in regions where the rule of law is weakest. Therefore, it stands to reason that Dr. Iain Douglas-Hamilton,<sup>2</sup> Founder of Save the Elephants, testified before the Senate Committee on Foreign Relations that Central Africa has been the most severely impacted by the dramatic increase in elephant poaching, losing more than half of its elephants in the last decade. The most current studies done by the Wildlife Conservation Society show that in 2012 alone, poachers killed approximately 35,000 African elephants for their tusks. At

<sup>1</sup>Berganas, J. (2014) *Killing Animals, Buying Arms: Setting the Stage for Collaborative Solutions to Poaching and Wildlife Crime*. Washington, DC: The Stimson Center. <http://www.stimson.org/images/uploads/research-pdfs/killing-animals-buying-arms-WEB.pdf>.

<sup>2</sup>Douglas-Hamilton, I. (2012) *Ivory and Insecurity: The Global Implications of Poaching in Africa*. Washington, DC: Hearing before the Committee on Foreign Relations, U.S. Senate. <http://www.gpo.gov/fdsys/>.



this rate, African forest elephants will be extinct in another 10 years, and East Africa's savannah elephants will be right behind them.

When we see an elephant, we are inspired with a special sort of wonder and reverence. They are truly amazing animals. Elephants live in close-knit families and can only be separated by death or by capture. When an elephant dies, it is mourned and buried by other members of the tribe. They are the only mammals besides humans that are known to have rituals for death. Elephants have been observed responding to the distress of other humans and animals by protecting them or intervening in harmful situations. The saying, "An elephant never forgets," has been backed up by neuroscience, which has identified neural structures similar to dolphins, humans, and the great apes. Elephants use tools, exhibit self-awareness, engage in collaborative problem-solving and an especially talented elephant named Shanthi here at the National Zoo in DC can even play the harmonica and horn instruments.

What will the world look like without elephants? How can we ever justify allowing this species, which is considered to be as intelligent as dolphins and the great apes, to become extinct?

The situation is dire. The aforementioned Stimson Center report, *Killing Animals, Buying Arms*, cites Kenya Wildlife Service park rangers as describing their efforts against poachers as a war that they are losing. There is growing evidence that organizations like the Lord's Resistance Army and al-Shabaab fund terrorist attacks, recruitment efforts, guns and explosives with the proceeds of illegal ivory sales. Decades of war and instability in Central Africa have created a power vacuum in which these actors are free to do more or less whatever they want, from poaching to illegal mining to enlisting child soldiers to trafficking in sex slaves.

There is no reason for us to give up hope. The desperation and greed driving elephant poaching and illegal ivory sales can be reversed. There is ample evidence that funding conservation efforts has a significant and positive impact in protecting wildlife and the humans tasked with guarding them. Research by the Wildlife Conservation Society shows that forest elephant densities, the most threatened subspecies found in Central Africa, are seven times higher where they are protected.<sup>3</sup> Iain Douglas-Hamilton, who I mentioned earlier, also described the slaughter of elephants and other endangered wildlife as largely opportunistic, with poachers "target[ing] the softest populations . . . mov[ing] from one population to another."<sup>4</sup> Clearly, protective forces act as a deterrent when adequately staffed, trained, and armed. The support of U.S. governmental agencies like the Fish and Wildlife Service through the Multinational Species Conservation Funds and U.S. Agency for International Development play an absolutely essential role in supporting conservation forces internationally, from assisting in training eco-guards and supporting prosecutions to bolstering surveillance of key border crossings and investigating financial assets and much, much more.

There is also reason to hope that we can have an impact on reducing the demand for ivory and other endangered species products as well. All the research by governmental and non-profit organizations indicates that most illegal ivory is sold to the Chinese market. Far from being dispassionate to the plight of elephants, however, the Chinese government strictly protects its own forest elephants.<sup>5</sup> What this would suggest to me is that there's a fundamental lack of understanding about the connection between the large-scale poaching of elephants (and rhinoceroses, for that matter), and the presence of ivory in the form of trinkets and potions for commercial sale. I see this as a personal challenge to raise awareness about the incredible costs of wildlife trafficking, and I hope that U.S. diplomacy will continue to work toward that goal as well.

Although China may be the biggest market, the United States is also one of the largest, ranking as high as number two worldwide in some assessments.<sup>6</sup> This gives the United States the opportunity to lead the international community's response to the elephant poaching crisis—much as it did when this Congress passed the initial U.S. ban on the commercial ivory trade in 1988. Just a year after passage of that important legislation, the international community agreed to a similar ban on the global trade in ivory. The actions of the U.S. Fish and Wildlife Service to tighten the U.S. ban on the commercial trade in ivory are critically important, not just to ensure that the United States will no longer be a destination for illegal ivory, but

<sup>3</sup>*The Elephant Poaching Crisis: A Call for Action*. Washington, DC: The Wildlife Conservation Society.

<sup>4</sup>Douglas-Hamilton, I. *Ibid.*

<sup>5</sup>Douglas-Hamilton, I. *Ibid.*

<sup>6</sup>*Elephants in the Dust: The African Elephant Crisis*. United Nations Environment Programme, et al. [http://www.unep.org/pdf/RRAIvory\\_draft7.pdf](http://www.unep.org/pdf/RRAIvory_draft7.pdf).

to show the international community—and China in particular—that the United States is absolutely serious about confronting the mass poaching of elephants and is willing to assume the leadership role once again to shutdown the demand for illicit ivory products.

If we do not lead, who will? And if we do not lead now, how much longer will there still be elephants left to save? When I reach out to my followers on social media about elephant poaching and wildlife trafficking, the response is powerful and positive. Retweets and favorites on Twitter number in the thousands, and the response on Facebook is in the hundreds of thousands. The outpouring of emotion is strong, and the message is clear: the American people want decisive and meaningful action from their government. It's up to you to enforce tough laws and build global partnerships to promote global enforcement to address wildlife crimes.

Although I understand that the focus of this hearing is on the elephant poaching crisis and the ban on commercial trade in ivory, I'd like to take a moment to talk about a related topic that is under the jurisdiction of this subcommittee that affects all wildlife, and that is the vital importance of protecting wild habitats, both at home and abroad.

Since I last testified before this subcommittee, I've had the opportunity to travel to parts of the world that are under mounting pressure from environmental and human threats. In particular, I've spent significant time over the last year in Africa, where desertification, agriculture, and urbanization have all played a role in displacing crucial grassland and forest landscapes that are the home to thousands of species, large and small.

There are many strategies for pursuing land conservation. Some organizations focus on protecting land- and seascapes with the greatest density of biodiversity, which include tropical rainforests, coral reefs, floodplains, and more. Other organizations focus on managing land- and seascapes that are the most productive in terms of agricultural and fishing output or mineral and timber resources. Regardless of the approach, strong governance structures are fundamental to protecting habitats and pursuing smart and sustainable land use management policies.

The plight of Great Ape species worldwide illustrates the importance of maintaining wild habitats. In Sumatra and Borneo, the orangutan is considered critically endangered due in large part to the decimation of tropical forests for logging and agricultural interests, both legal and illegal.<sup>7</sup> Their native habitat is increasingly fragmented by human activity, which results in an orangutan population that is at the same time more disparate and more concentrated. Consequently, unusual disruptions like disease, resource scarcity, or fire have an outsize impact on an already vulnerable population, making them unable to rebound from adversity. The splintering of a once-large population due to fragmentation also poses serious problems in maintaining genetic diversity, which is necessary for the species to remain strong and vital. Orangutans are not alone in this plight—gorillas, chimpanzees, and bonobos are similarly threatened by habitat disruption.<sup>8</sup>

As a nation, the United States also has an interest in promoting the political and economic stability of other countries throughout the world. Habitat conservation must take place in partnership with economic development, not at odds with it. Coastal communities will only become more vibrant and prosperous with clean water, unpolluted beaches, and carefully managed fisheries. At times, conservation programs are even synonymous with economic revitalization. As Dr. John Robinson, Executive Vice President of Conservation and Science at the Wildlife Conservation Society, who testified alongside me in 2011,<sup>9</sup> said, "Strengthening the Virunga National Park in the Democratic Republic of Congo provided jobs for hundreds of rangers during that nation's long civil war. These rangers both protected mountain gorillas and their habitat and helped control illegal logging and charcoal manufacturing that provided revenues to the insurgencies." The illegal exploitation and trade in wildlife and natural resources that fuels regional conflict and funds militias must be stopped by global enforcement efforts and proactive large landscape-level conservation.

Let me raise one more reason for taking a strong stance on protecting endangered habitats throughout the world. I, like so many people, have become the person I am today in relation to the natural world. Growing up in Louisiana left an indelible im-

<sup>7</sup> *Orangutans*. WWF International. [http://wwf.panda.org/what\\_we\\_do/endangered\\_species/great\\_apes/orangutans/](http://wwf.panda.org/what_we_do/endangered_species/great_apes/orangutans/).

<sup>8</sup> *Great Apes*. WWF International. [http://wwf.panda.org/what\\_we\\_do/endangered\\_species/great\\_apes/](http://wwf.panda.org/what_we_do/endangered_species/great_apes/).

<sup>9</sup> Robinson, J.G., (2011) *Legislative Hearing on H.R. 50, H.R. 1760, and H.R. 1761*. Washington, DC: Hearing before the Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs. <http://www.gpo.gov/fdsys/>.

print on who I am as a person. I would venture to guess that it's the same for many of the distinguished members of this subcommittee and their constituents, coming from such incredible natural landscapes as those seen in the Mariana Islands, Alaska, Guam, Puerto Rico, and each of your districts. It is my belief that we have a sacred responsibility to be stewards of the Earth, and especially of those regions whose survival hangs in such a delicate balance. Ultimately, to restore natural prosperity to these regions, we will have to invest in holistic solutions. At the IS Foundation, we are often asked why we don't localize our efforts into one particular need. Because we view the environment as one meticulously interconnected organism, we believe interconnected solutions are what truly create widespread and quantifiable change. After all, an organization that only focuses on saving endangered species is losing sight of the habitat restoration, waterway health, and economic change necessary to holistically fill that need.

I would like to add one more issue for consideration, and that is the emotional resonance that wildlife and habitat conservation has with the American people. The bald eagle, the American Bison and the Grand Canyon are as much icons of our great country as the values of liberty and justice for all. In my travels and interactions with people around the world, it has been made more than clear to me that animals like elephants, tigers, rhinoceroses, sea turtles, and the Great Apes illuminate the imagination and inspire compassion from all corners of the globe. The United States has an incredible opportunity to safeguard the long-term future of endangered species and landscapes while also investing in the political and economic stability of foreign nations.

On behalf of the Ian Somerhalder Foundation, I urge the subcommittee to work with the U.S. Fish and Wildlife Service and the Administration to quickly move ahead on tightening the ban on commercial ivory trade so that the United States can once again show its leadership in saving the African elephant. Thank you, again, for this opportunity to testify, and I look forward to your questions.

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Dr. FLEMING. Thank you, Mr. Somerhalder.

And let me give an advisory here. It looks like our votes will probably be more like 5 o'clock, and I know Mr. Somerhalder may have an airplane to catch. So you can leave any time you wish, but we hope you can stay as long as you will.

Mr. SOMERHALDER. Thank you, Mr. Chairman. I would love to stay as long as I can. So hurry up, guys.

[Laughter.]

Dr. FLEMING. Mr. Hayes, you are recognized, sir, for 5 minutes.

**STATEMENT OF THE HON. DAVID J. HAYES, VICE CHAIR,  
FEDERAL ADVISORY COUNCIL ON WILDLIFE TRAFFICKING**

Mr. HAYES. Thank you, Mr. Chairman. Thank you, Ranking Member Lowenthal, and members of the committee.

My name is David Hayes. I am appearing in my personal capacity. I am currently a visiting professor at Stanford Law School. I am also the Vice Chair of the Federal Advisory Council on Wildlife Trafficking that the President appointed under his executive order from last July, Executive Order 13648, and as you know, I served as the Deputy Secretary of the Department of the Interior until last July.

I would like to put today's hearing in a bit of context first. It is about the crisis that the elephants are facing in Africa, and it spiked in the last 5 years. Over the last 5 years, we now have a new phenomenon that the intelligence communities of the United States have confirmed last year, of organized criminal syndicates orchestrating the killing of large numbers of elephants. This is different than in the 1980s when it was more opportunistic killings by smaller bands who were trying to essentially fund local conflict.

This is now considered to be the fifth largest transnational organized criminal syndicate in the world, right behind arms, drugs and human trafficking.

The devastation of the elephants is worrisome enough, as Ian explained. The numbers are alarming: 35,000 elephants killed estimated in 2012, another 20,000 just confirmed last year. At these rates, this is on a base of maybe 400,000 elephants for the continent as a whole. This is unsustainable in terms of the number of elephants that are being killed.

But in addition to the impact on the elephants, the connection to organized crime and terrorist groups is undermining the integrity of governments in Africa; is clearly funding terrorist groups and militias. The alarm was really pulled by then Secretary Hillary Clinton who in November of 2012 asked the intelligence agencies to look into this issue.

They reported back about a year later and confirmed the kind of tides that we are talking about, and that led to the President issuing an executive order July 1 in Tanzania to combat wildlife trafficking, and here is what he said. "Poaching operations have expanded beyond small scale, opportunistic actions to coordinated slaughter commissioned by armed and organized criminal syndicates. The survival of protected wildlife species such as elephants, rhinos, great apes, tigers, sharks, tuna and turtles has beneficial economic, social and environmental impacts that are important to all nations. Wildlife trafficking reduces those benefits while generating billions of dollars in illicit revenues each year, contributing to the illegal economy, fueling instability and undermining security."

What the President did then is a whole of government effort to get behind and to solve this true crisis in terms of wildlife trafficking. He formed a cabinet level task force under the executive order chaired by Secretary Kerry, Secretary Jewell, and Attorney General Holder. He directed them to come up with a national strategy to deal with combatting wildlife trafficking, and he formed the Advisory Council that I am the Vice Chair of.

That led to the national strategy document that came out in February of this year. It is a comprehensive document that looks to strengthening enforcement on the ground in Africa, also in strengthening enforcement in the transshipment of these articles from Africa to demand nations, including the United States, but especially Asia, and second, reducing demand for this wildlife, illegally traded wildlife, and third, expanding international cooperation and commitment.

Now, what the Fish and Wildlife Service is doing here is a small piece of this comprehensive effort. The piece is directed at tightening up restrictions on commercial trade in ivory. Those commercial restrictions are in the law today. As has been mentioned before, the 1988 Elephant Conservation Act makes illegal any import of any African ivory since 1989.

When CITES came, because of U.S. leadership, CITES then came in and confirmed that as a global ban. What has happened in recent years is that ban had deteriorated, and with the last 5 years and the increased attention by these criminal syndicates, there is

now a flood of illegal ivory moving around the world. We need to get at it.

The United States simply needs to tighten up the loopholes and prosecute existing legal requirements. That is what this is all about.

I will say finally, the Fish and Wildlife Service clearly can do, I think, a somewhat better job in assuring Americans that they are not in danger of being prosecuted for owning ivory and for commercially trading ivory when it fits within, for example, the antique exemption of an ESA. My understanding is the Fish and Wildlife Service is beginning a public rulemaking within 2 months that will provide an opportunity for the public to provide input and to establish appropriate legal standards.

Thank you very much.

[The prepared statement of Mr. Hayes follows:]

PREPARED STATEMENT OF DAVID J. HAYES, VICE-CHAIR, FEDERAL ADVISORY COUNCIL  
ON WILDLIFE TRAFFICKING

My name is David J. Hayes. I appreciate the opportunity to appear before the Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs to discuss actions that the U.S. Fish & Wildlife Service (FWS) is taking to implement restrictions on commercial trade in ivory and related issues.

I am testifying today in my personal capacity. I currently am a Distinguished Visiting Lecturer at Law at Stanford Law School. I also am the appointed Vice-Chair of the Advisory Council on Wildlife Trafficking, which the President established under Executive Order 13648 ("Combating Wildlife Trafficking"). As this subcommittee is aware, I served as the Deputy Secretary of the U.S. Department of the Interior from the outset of the Obama administration until last July. I also served as Deputy Secretary in the Clinton administration.

THE SCOURGE OF IVORY TRAFFICKING: CONTEXT FOR TODAY'S HEARING

Over the last 5 years, organized criminal syndicates have orchestrated an alarming surge in the killing of tens of thousands of elephants for their ivory. An estimated 35,000 elephants were killed for their ivory in Africa in 2012, and preliminary information indicates that at least 20,000 additional elephants were killed in 2013.

The devastation of some of Africa's most iconic animals, including the largest mammals who roam the earth, is cause enough for alarm. But behind the local villagers who carry out the killings lie sophisticated criminal syndicates that are reaping billions of dollars in illegal profits, fueling instability and corruption in African and Asian nations, and helping arm militias and terrorist groups. The international criminal menace—which has expanded its trafficking activities beyond drugs, arms and human trafficking into the newly lucrative illegal wildlife trade—poses a direct threat to stability and order in important emerging economies and U.S. trading partners in Africa and Asia. And these real and present dangers are being fueled by demand for ivory—a non-essential luxury item.

Over the past 2 years, the world has begun to awaken to the double threat posed by illegal wildlife traffickers: (1) the cruel killings of tens of thousands of Africa's most iconic animals and the growing tragedy triggered by the mass killings, including the fraying of Africa's deep cultural, environmental and economic linkage and shared identity with its wildlife; and (2) the corrosive influence that massive illegal wildlife trafficking is having on important U.S. interests in Africa and Asia, spawned by the traffickers' unholy alliances with militias, terrorist groups and corrupt officials.

Then-Secretary of State Hillary Clinton first drew attention to these emerging threats in an important State Department address in November 2012. She triggered the U.S. intelligence agencies' analysis and subsequent confirmation of the ties between the criminal syndicates involved in wildlife trafficking and their connection with militia and terrorist groups. Simultaneously, leaders in the U.S. Department of the Interior—which oversees African wildlife programs through its Fish & Wildlife Service and is the U.S. lead in implementing the international convention that restricts trade in endangered species (CITES)—also sounded the alarm within the Administration. More specifically, while visiting in Tanzania as Deputy

Secretary in early 2013 on behalf of FWS's Africa program, I learned first hand about the mass killings of elephants in Africa and resuscitation of the illegal ivory trade, and returned to the United States, committed to work with the White House and take on the issue.

A few months later, the President used the opportunity of his visit to Africa to make combatting international wildlife trafficking a priority for the Administration. See Executive Order 13648 ("Combating Wildlife Trafficking") (July 1, 2013). Section 1 of the President's Order speaks clearly and strongly to the threat that the international wildlife trafficking scourge poses to U.S. interests. It states:

"The poaching of protected species and the illegal trade in wildlife and their derivative parts and products (together know as "wildlife trafficking") represent an international crisis that continues to escalate. **Poaching operations have expanded beyond small-scale, opportunistic actions to coordinated slaughter commissioned by armed and organized criminal syndicates. The survival of protected wildlife species such as elephants, rhinos, great apes, tigers, sharks, tuna and turtles has beneficial economic, social and environmental impacts that are important to all nations. Wildlife trafficking reduces those benefits while generating billions of dollars in illicit revenues each year, contributing to the illegal economy, fueling instability, and undermining security.** Also, the prevention of trafficking of live animals helps us control the spread of emerging infectious diseases. For these reasons, it is in the national interest of the United States to combat wildlife trafficking." (Emphasis added.)

The President took several concrete steps in his Executive Order to give teeth to his policy pronouncement, including: (1) the formation of a cabinet-level Presidential Task Force on Wildlife Trafficking (Task Force)—chaired by Secretaries Kerry and Jewell and Attorney General Holder; (2) a directive that the Task Force develop and then implement a National Strategy to Combat Wildlife Trafficking; and (3) the formation of an Advisory Council on Wildlife Trafficking to assist the Administration in developing and implementing the National Strategy. The President's Executive Order also directed the Task Force to explore how best to fold wildlife trafficking into the Administration's previously announced initiative on "Transnational Organized Crime."

The Task Force and Advisory Council heeded the President's call and, on February 11, 2014, the White House released the National Strategy for Combating Wildlife Trafficking. The National Strategy lays out an ambitious agenda, identifying three strategic priorities to guide the U.S. response to the global wildlife trafficking crisis: (1) Strengthen Enforcement; (2) Reduce Demand for Illegally Traded Wildlife; and (3) Expand International Cooperation and Commitment. The National Strategy then builds out 24 key implementation areas under the three strategic priorities. Adding to the mix, the Advisory Council took action on June 9, 2014 and formally endorsed 19 specific recommendations to implement the National Strategy and move forward with a comprehensive, multi-front war on wildlife traffickers.

#### FWS ACTIONS TO IMPLEMENT THE BAN ON COMMERCIAL TRADE IN IVORY

As noted above, tightening up existing restrictions on commercial trade in ivory represents one element of a whole-of-government, multifaceted effort to combat illegal wildlife trafficking. Ending the slaughter, corruption and funding of militias and terrorist groups caused by illegal traffickers required attention on all of the three strategic priorities identified in the recently released National Strategy document: (1) Strengthen Enforcement; (2) Reduce Demand for Illegally Traded Wildlife; and (3) Expand International Cooperation and Commitment.

That said, restrictions in commercial trade in ivory play an important role in the overall effort because they focus U.S. and worldwide consumer attention on the devastating impact that ivory sales are having on elephant populations and de-glamorize the purchase of ivory. Restrictions on ivory trade also dramatically shrink the legal market for ivory products, thereby unmasking the "cover" that legal or pseudo-legal markets now provide for ivory traffickers. Doing so unleashes enforcement efforts in the United States, and worldwide, against the movement and sale of ill-gotten ivory.

Previous experience validates the important role that restrictions on ivory trade can have in striking back at illegal wildlife traffickers. More specifically, in 1989, the world community responded to a previous surge in elephant killings in Africa by uplisting elephants to Appendix I status under the CITES convention and banning commercial imports and exports of ivory. The 1989 ban had a dramatic impact. Ivory markets in the United States and Europe collapsed. With the ban in place,

poaching rates declined precipitously and elephant populations in Africa stabilized at around 600,000 (down from a peak of 1.2 to 1.3 million elephants in the late 1970s). Elephant populations then remained relatively healthy for nearly 20 years—with greatly reduced ivory-related killings—until poaching rates began to escalate rapidly again around 2008, accelerating to today's massive levels of killings, which are threatening the continued existence of elephants in the African wild.

A number of factors have come together since 2008 to trigger the spiking in elephant killings. Two of the most important factors revolve around erosion of the 1989 ban on commercial trade in ivory. The most striking undermining of the ivory ban occurred in 1999 and again in 2008, when CITES allowed sales of national stocks of ivory in the hope that adding more legal ivory into the market on a tightly regulated basis would moderate demand, bring down prices, and demonstrate that a regulated ivory market could be successful.

The experiment was a disaster. The introduction of new, legal ivory undermined the worldwide ban on commercial trade in ivory and provided cover for illegal syndicates to dramatically increase elephant killings and sales of illegal ivory. Efforts to track and regulate the legal ivory that entered the marketplace in 1999 and again in 2008 failed spectacularly, with China, at one point, being unable to account for a significant amount of the ivory that it had purchased.

In addition, the weakening of the ban on ivory trade unfortunately coincided with the rapid rise of a newly wealthy middle and upper class in Asia which has fueled increased demand for ivory. The potential market is huge, and the run-up in the price in ivory with no apparent slowing of demand, indicate that demand for ivory is inelastic. So long as ivory is available for sale and viewed as an acceptable purchase, the voracious market will continue to incentivize criminal syndicates to kill elephants for their ivory in record numbers—threatening the viability of the species in Africa.

These developments have led experts to agree that elephant killings will continue at a high rate unless the United States and other nations double down on the 1989 ban on commercial trade while, at the same time, launching a sophisticated demand reduction strategy. Parties to the CITES convention are taking steps in this direction, demanding that a number of nations that have clearly been violating the 1989 ban—including China, Vietnam, Kenya and Tanzania, among others—develop action plans to clamp down on illegal transport and sale of ivory and rhino horn. CITES' Standing Committee will be reviewing those plans this summer for their sufficiency.

#### IMPLEMENTING THE IVORY BAN IN THE UNITED STATES

Here in the United States, the initial success of the 1989 ban on most imports of African elephant ivory also has eroded over time. While early messaging of the ban prompted many retailers to get out of the ivory business, loopholes and exceptions in U.S. law, along with lax enforcement, allowed some commercial trade to continue. The Administration recognized that U.S. leadership in stopping the dramatic increase in wildlife killings depends, in part, on tightening up our own administration of the ban on commercial trade in ivory. That is why the White House combined the release of the National Strategy on February 11, 2014, with an announcement that FWS would take administrative actions to more fully implement a ban on commercial trade in ivory.

A key point in this regard is that U.S. law already outlaws virtually all commercial trade in ivory. The cornerstone of U.S. restrictions on ivory trade is the African Elephant Conservation Act of 1988, 16 U.S.C. 4201 *et seq.* (AECA). Section 4223 of the AECA makes it unlawful, as general matter, to import raw or worked ivory that was illegally exported from an ivory producing country and to import raw or worked ivory from a country for which a moratorium is in place under section 4222 of the Act. Under regulations that were promulgated under the authority of the Endangered Species Act, no downstream commercial trade is allowed in ivory products that were illegally imported. 50 CFR 17.40(e).

Thus, in accordance with the AECA, when the CITES Appendix-I listing of the African elephant went into effect in 1990, it essentially cut off commercial imports and exports of elephant ivory here in the United States, in addition to the scores of other nations that adhere to CITES requirements. Under an administrative exception to the AECA moratorium, the only commercial ivory imports allowed after 1989 were ivory products that qualified as "antiques" under the Endangered Species Act definition. 16 U.S.C. 1539(h).

FWS's recent actions in tightening up the already-in-place restrictions on commercial trade in ivory are modest.

First, FWS has determined that the exception for antiques under the ESA, which allows for commercial trade in ivory that meets the ESA definition of antique, in-

cluding that it is more than 100 years old, should not apply to imports that are proscribed under the African Elephant Conservation Act. This is a common sense change that closes an importation loophole that has long been at odds with the strong import ban that Congress adopted in the AECA.

Second, when explaining that it will no longer apply an “antique” exception for items containing African elephant ivory that are imported for commercial purposes, FWS indicated that it intends to clarify the type of documentation that may be used to verify the provenance of an item, including the circumstances under which it was imported into the United States (for example, verifying that the ivory was legally imported into the United States without restrictions), to allow for on-going commercial trade which is allowed under current regulations. FWS will be proceeding with this clarification via a public rulemaking process that it reportedly intends to initiate soon.

In clarifying of the type of verification needed to establish that an ivory product can be traded commercially in the U.S. because it qualifies as “antique” ivory under the ESA, the Service will be following Congress’ direction. Congress has made clear that persons who seek to benefit from exceptions to ESA prohibitions, such as the “antique” ivory exception, have the “burden of proof” in establishing the exception. 16 U.S.C. 1539(g).

It is my view that in clarifying the proof needed to establish legality under the law, FWS should adopt a common sense approach that offers law-abiding ivory owners reasonable avenues to obtain required certifications. But the showings must be vigorous enough so as to prevent fraudulent claims by agents of the sophisticated traffickers who are making billions from the sale of ivory from freshly killed elephants. The Advisory Council on Wildlife Trafficking made a similar point in adopting and forwarding the following recommendation to the cabinet-level Task Force in a public meeting held on June 9, 2014:

**The Interior Department Should Continue to Take Administrative Steps to Tighten and Clarify the U.S. Restrictions on Commercial Trade in Ivory and Rhino Horn**

*The Advisory Council supports the Administration’s efforts to use available administrative tools to close loopholes and tighten up the ban on commercial trade on ivory products in the U.S., consistent with existing law. The Advisory Council urges the Interior Department’s Fish & Wildlife Service to work with the regulated community and provide non-burdensome permit approvals for non-commercial import and export of products that contain ivory (e.g., orchestra instruments that contain ivory; traveling museum exhibitions, etc.), and for clear and reasonable burden of proof standards that qualify ivory products as “antiques” that are exempt from the Endangered Species Act. The Council also urges FWS to identify and foster donation (e.g., to a museum), disposal and other options that are available to individuals who possess ivory or rhino horn products that cannot be traded commercially.*

In sum, it is appropriate for FWS to take these modest steps to clarify what type of commercial trade in ivory is legal, and what is not. In so doing, FWS is reminding Americans that U.S. law prohibits almost all commercial trade in ivory and that the law requires individuals seeking to sell “antique” and pre-ban ivory products to come forward with credible evidence that they qualify for these exceptions to the general rule. By taking these actions, FWS is not impacting the right of U.S. citizens to own ivory, or to trade ivory products if they can make required showings.

In addition to being authorized and appropriate under existing law, it is important that the United States enforce existing restrictions on ivory trade in order to ensure that the United States does not provide a market for the illegal ivory trade that has been spiking, worldwide, over the past few years.

As a final point, by taking steps to reconfirm and clarify existing restrictions on commercial trade in ivory, the United States strengthens its hand in insisting that China and other Asian nations take similar steps and shut down the rampant illegal trading activity that has infected their domestic ivory markets. If they do not, the United States can and should demand that offending nations either get in line, or suffer the consequences of trade sanctions imposed under the authority of U.S. law (the Pelly Amendment) or in concert with other nations, under the CITES treaty. The Advisory Council formally adopted a specific recommendation along these lines in the meeting that it held on June 9. The recommendation reads as follows:



**The U.S. CITES Delegation Should Aggressively Advance the President's Agenda to Combat Illegal Wildlife Trafficking**

*The Advisory Council recommends that the Task Force work closely with the U.S. delegation to the upcoming CITES Standing Committee (SC) meeting, and other CITES-related activities, and ensure that: (1) the United States is represented at an appropriately high level; and (2) the U.S. delegation aggressively advances the President's agenda to combat illegal wildlife trafficking. In particular, the Advisory Council recommends that the United States' CITES delegation work with other member states to hold countries accountable for the implementation of their CITES obligations—both recognizing positively when countries have made significant progress, and taking action when they have not. The U.S. also should consider imposing trade sanctions under U.S. law (e.g., the Pelly Amendment) when trading partners are persistently violating CITES or other anti-trafficking requirements.*

Thank you for the opportunity to submit this testimony to the subcommittee.

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Dr. FLEMING. Congressman Fields, you are now recognized.

**STATEMENT OF THE HON. JACK FIELDS, FORMER REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS**

Mr. FIELDS. Thank you, Mr. Chairman. Chairman Fleming, Mr. Lowenthal, Mr. Young, my former leader, it is a real honor to be here today. My name is Jack Fields. I am a former Member, serving 1980–1996 from the State of Texas. I was co-author of the African Elephant Protection Act of 1988, and today I represent no one other than myself, although I would like to think I represent all the Members who voted for that Act, both current and former.

And I want to comment just a moment about that Act because, Mr. Chairman, when I heard you speak just a moment ago, to me you really focused this in a way that it really should be, the framing that the real problem is the poacher, as did you, Mr. Lowenthal; that if we are all sincere about doing something about the sustainability of the African elephant, we need to focus on the poacher. We need to focus on the countries that allow the importation of illegally taken ivory. I mean, that is where our focus should be.

And I say that in the context that I did that very thing with Tony Beilenson, a former Member, liberal Democrat from California, great friend of mine, great legislator. For those of you on the Democrat side of the aisle, you should be so proud that you were represented by someone like that, a great gentleman, great intellect, great integrity.

And Tony and I came from different cultures, different philosophies, but we found a commonality in that we wanted to see the African elephant preserved. So we started conversations, and we had conversations with groups that were against hunting. We had conversations with groups that were for hunting, and we decided that we were going to put collateral issues aside, and I suggest to you today that this issue regarding ivory is a collateral issue. I suggest to you this issue regarding the ban of importation of ivory from Tanzania and Zimbabwe, that is collateral.

If you are really looking at trying to preserve the elephant population, to me the long and short of it is you should look on the market demand side. You should see who is making the money, follow the money, chase the money.

And when Tony and I came up with the legislation that became the Elephant Protection Act of 1988, we went beyond just the passage of that legislation. If we had stopped there, we would have made a monumental mistake. The first thing we did after the passage, we had a meeting with Secretary Jim Baker, who was then Secretary of State, and said, "There is a real problem in Japan. Forty percent of the world's ivory is being consumed in Japan for the hanko, their signature stamp".

Well, lo and behold, when Secretary Baker met with the Japanese, the Japanese decided to adhere to CITES. So all of a sudden, 40 percent of the world's demand was dried up.

The second thing we did, we went and met in the Members' dining room with the Ambassador for Great Britain because at that time Great Britain had governing authority over Hong Kong. We said there is a real problem. We would hope that you would adhere to CITES, put the noose around Hong Kong, which the British did.

Then we found that the ivory was being smuggled into China. So we thought we were on a roll. We had been successful regarding Japan. We had been successful regarding Hong Kong. We will meet with the Chinese Ambassador. When we met with the Chinese Ambassador, he said, "Mr. Congressman, you made a big mistake. There is no post ivory in our country."

Tony and I disagreed. We introduced a piece of legislation that would have denied China \$150 million in fishery exports. We held a hearing, not in this room, but just down the hall. The room was populated by journalists from China, and all of a sudden the Chinese Ambassador came back after that hearing and said, "Believe it or not, we found a problem and we are going to adhere to CITES."

The price of ivory, the net effect, the price of ivory at that point was \$100 per pound. It dropped to almost zero. Poaching became almost nonexistent, and those countries that had good elephant conservation programs like Zimbabwe, like Tanzania, their elephant populations began to grow. Today you have an elephant population in Zimbabwe, as an example, that is twice what the local habitat can actually sustain.

Mr. Chairman, I would like to submit the remainder of my testimony for the record but just close with this. You have a tremendous amount of power, you and Mr. Lowenthal, and I was very intrigued by what Mr. DeFazio said. I mean, it sounds to me like there is a real opportunity for those of you who are sincere and want to do something to sustain the population of African elephants to work together and shine that spotlight on the people who are the bad actors, to follow the money and examine sanctions, examine legislation that prevents exports to this country.

You know, most countries cannot stand that type of global spotlight, and I encourage you to do that, and I encourage you to get as much information as you can from our government, from international entities and come forward with a bipartisan collaborative process that really does work.

What has been presented by Fish and Wildlife, in my opinion, will not work. Thank you, Mr. Chairman.

[The prepared statement of Mr. Fields follows:]

PREPARED STATEMENT OF THE HON. JACK FIELDS, FORMER MEMBER OF CONGRESS  
FROM THE STATE OF TEXAS

Chairman Fleming and Ranking Member Sablan, thank you for this opportunity to testify before your subcommittee this afternoon. My name is Jack Fields, I am a former Member of Congress, representing the Eighth Congressional District of Texas from 1980–1996 and one of the co-authors of the African Elephant Protection Act of 1988. Today, I represent no one other than myself, although I would like to think that I represent all Members, former and current, who supported the African Elephant Conservation Act of 1988.

The African Elephant Conservation Act of 1988 was truly a bipartisan piece of legislation cosponsored by Tony Beilenson, a liberal Democrat from California, and me, a conservative Republican from Texas. For those of you on the Democrat side of the aisle, you would have had a great deal of respect for Tony Beilenson as a real gentleman—he was a legislator’s legislator, he had a keen intellect, unmatched sincerity and integrity, and he had a passion to save the African elephant.

And, while Tony and I came from different cultures and represented different constituencies, we both realized that we had to do something to stop the poachers who were decimating the elephant herds of Africa—so, we focused on our commonalities rather than our differences.

We brought together a disparate group of stakeholders—we met and engaged with the Humane Society of the United States, the African Wildlife Foundation, World Wildlife Fund, and other groups who did not support sport hunting—and, we met with the Houston Safari Club, Safari Club International, the Dallas Safari Club and other groups who did support sport hunting.

The result of these meetings was the creation of a bipartisan group who put all collateral issues aside to focus on saving the African elephant, and recognizing that the poacher and the countries who did not adhere to CITES and who allowed poached ivory into their borders, these were our enemies.

Our bipartisan consensus resulted in the African Elephant Conservation Act of 1988 which remarkably passed both the House and the Senate by voice vote.

The African Elephant Conservation Act of 1988 did several important things:

1. It stopped the importation of carved ivory into this country.
2. It had a finding that sport hunting was biologically neutral and had no impact on sustainable populations of elephants.
3. It rewarded those countries who had good conservation programs and adhered to the rules established by CITES.

But, Tony and I did not stop with the passage of the legislation—we felt that the legislation was the foundation and gave U.S. congressional authority to go after the real enemy—the poacher—and that the best way to stop the poacher was to dry up the “market/demand” side of the equation.

So, we began a series of very important meetings together as a team and, I think we were a good team—Tony, as a Democrat represented the majorities in the House and Senate, and, as a Republican, I had assets in President Ronald Reagan’s administration.

1. Our first meeting was with Jim Baker who at that time was Secretary of State. We made a case that 40 percent of the world’s ivory was being consumed by the Japanese—Secretary Baker agreed to intervene with the Japanese who very quickly stopped the importation of ivory into their country—a tremendous victory to dry up 40 percent of the world’s market.
2. Next, Tony and I met with the British Ambassador—because at that time the British governed Hong Kong. We met in the Member’s dining room—to our surprise, the British agreed to ban the importation of ivory into Hong Kong—another great victory—more demand was dried up!
3. Then, we learned that the ivory was being shifted into China from Hong Kong. We asked for a meeting with the Chinese Ambassador—who told us that no poached ivory was in China. Tony and I differed with the Ambassador and asked that China stop the importation of poached ivory and adhere to CITES. We were told that China was not a problem, which resulted in Tony and I introducing legislation denying the Chinese \$150 million in fishery exports into the United States. We held a hearing on this bill, and then we were told that the Chinese had found a problem and that it was being corrected and that their country would adhere to CITES. Another great victory for the African elephant and defeat for the poacher. Sadly, in the case of China, however, that victory was not a permanent one.

So, what was the net result of our legislation coupled with our efforts to dry up the market/demand? The price of ivory dropped from approximately \$100/lb to almost nothing—poaching became almost non-existent and, in the countries which had good conservation programs, there was a growth in their elephant populations.

So, why do I take so much time reminiscing about the past? Because if you are sincere in wanting to protect and enhance the elephant populations in Africa, which I think, you are—then you would want to hear what Tony and I learned from an exhaustive process working with all stakeholders—to hear about what Congress passed back in 1988—and to hear what affected the poacher, our “enemy”—which is drying up their marketplace, stopping the demand for poached ivory globally and, if need be, shining the spotlight on those countries who are bad actors—those countries who allow poached ivory into their borders. Let me assure you that most countries cannot withstand nor afford to have this type of spotlight shone on them.

So, in the context of what we know works in stopping the poacher and drying up the global marketplace for poached ivory—*Is the proposal brought forward by the Fish and Wildlife good policy, the right action to protect the African elephant in Zimbabwe and Tanzania?* I suggest to you the answer is a “resounding no”! There are several reasons:

1. Not consulting with Zimbabwe and Tanzania before the announcement of the Fish and Wildlife Service proposal quite frankly is insulting to these two countries. Zimbabwe and Tanzania have been leaders in conservation policies regarding the African elephant. It is their citizens who have their crops trampled, their children chased, their fences and homes knocked down.
2. Denying the importation of legally taken sport hunted ivory within the quota filed with CITES for these two countries converts the elephant from an animal protected by local citizens to an animal that is viewed as a source of protein and ivory to be poached. In Zimbabwe, where I have the most familiarity, and in the area of Wankie National Park where I have visited over 10 times, sport hunting brings in over \$575,000 per year, with 80 percent of that number staying in the local community. By contrast, the photographic lodge in that area brings in \$30,000/year for the local community. And, this is just one area of Zimbabwe. Sport hunting, for the country of Zimbabwe, brings in between \$15 and \$20 million each year.
3. By stopping sport hunting which is biologically neutral, there are several other effects:
  - a. Employment in the local communities goes down, the support staff do not have jobs—which creates the wrong type of incentive for local protection of the elephant. The elephant becomes viewed as a protein source rather than an animal which generates revenue for the overall benefit of the local community.
  - b. By taking the professional and sport hunter out of an area like Wankie, which is more vast and remote than you and I can imagine, takes out the eyes and ears of those who work with the understaffed and underfunded National Parks Services of these countries. There are far fewer people protecting the elephant herds. This one fact alone makes it easier for poachers to operate.
  - c. Many of the sporting groups support water projects for the elephants. I know of one private company in Zimbabwe, on their own, who drill water wells within the national park, not the hunting areas, to protect the elephant herds which have been devastated by a historically bad drought.

So, the proposal of the Fish and Wildlife Service before us today:

1. insults host countries like Zimbabwe and Tanzania;
2. kills jobs in rural, subsistence communities;
3. removes those who work with the National Parks Services in Zimbabwe and Tanzania from remote areas, thus making it easier for poachers to decimate elephant herds; and
4. it takes those who are on the front line helping preserve elephant populations in this time of historic drought out of the area.

So, if this is the result—Is this good policy? Well thought out?

And, one additional comment on the Fish and Wildlife Service’s proposal which has a stated goal of establishing a “virtual ban” on the commercial sale of elephant ivory—when we wrote the moratoria provisions of P.L. 100–478, the fundamental goal was to stop the shipment of ivory from those range states who failed to have a sound and effective elephant conservation program. This language was never in-

tended to destroy the value of legally obtained ivory products. These items, which may contain a small amount of ivory, includes firearms, guitars, jewelry, pianos, violins, and other cultural artifacts which have historic and intrinsic value. These items and products have no conservation value to the 400,000 wild elephants in Africa by preventing their sale.

I suggest that you ask the Fish and Wildlife Service to review their proposal and, ask the questions: Does this proposal protect/enhance the elephant populations in Africa? Does this proposal create the right incentives for community protection of the elephant? Does this proposal make it easier to poach and smuggle ivory?

I suggest to both sides of the aisle—seek information from our government—global entities—on where the poached ivory is being taken today. Who makes the money from poached ivory? Follow the money.

And, then I suggest that you work with those host governments to stop the importation of poached ivory within their borders and, if such a government turns a deaf ear, think of all the weapons and options in your arsenal. Shine the spotlight—globally embarrass those host governments, pass sanctions, deny imports from their respective countries.

Mr. Chairman, I hope you will hold additional hearings—shine the spotlight. Thank you for the opportunity to testify on this subject which is very dear and personal to me.

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Dr. FLEMING. Thank you, Congressman Fields.

Next, Ms. Sheets, you are now recognized for 5 minutes to present testimony on behalf of the National Music Museum.

**STATEMENT OF ARIAN M. SHEETS, CURATOR OF STRINGED INSTRUMENTS, NATIONAL MUSIC MUSEUM**

Ms. SHEETS. Mr. Chairman, members of the subcommittee, my name is Arian Sheets, and I am Curator of Stringed Instruments at the National Music Museum in Vermillion, South Dakota.

Thank you for your invitation to appear today to discuss how the Fish and Wildlife Service's proposed ban on ivory sales would adversely impact musical instruments, musicians, and the museum community.

By way of background, the National Music Museum was founded on the campus of the University of South Dakota on July 1, 1973. Our collection of more than 15,000 American, European and non-Western instruments are among the most inclusive in the world. The collection includes many of the earliest, best preserved, and historically most important musical instruments known to survive.

About one-third of the instruments in our collection are American made, and many, both from this country and abroad are what might be called vintage instruments, that is, less than 100 years old.

I will focus my remarks today on how ivory was used in musical instruments after the early years of the 20th century and how the proposed ban would adversely affect these cultural icons.

In the area of stringed instruments with which I am most familiar, for example, C.F. Martin & Company of Nazareth, Pennsylvania, used small amounts of ivory in almost all of its guitars, starting with the company's founding in 1833. By 1918, Martin had stopped using ivory for bindings, bridges, bridge pins, and friction peg tuners. Martin continued to use ivory for saddles and nuts until approximately 1970, well before the elephant ivory was essentially banned.

The ivory saddles and nuts weigh only a few grams each and account for less than 2 percent by weight of the entire instrument.

Yet that is enough to make the entire instrument illegal for commercial sale under the Fish and Wildlife proposal. Most other U.S. manufacturers did not use ivory to the same extent.

Ivory was also used in very small amounts in the crafting of violin bows, though usage had generally stopped by the early 1980s, replaced with mammoth ivory and synthetic material. An ivory bow tip generally required only about a gram of unfinished ivory. Bow makers designed the head of the bow around the physical properties of the ivory tip, which gives the delicate bow head proportion, strength and proper balance.

Even though ivory use stopped more than 30 years ago, many musicians, including famous artists, still perform with these old but not antique bows. Replacing tips with non-ivory material while possible is fraught with dangers, not least of which is the accidental destruction of the bow while removing the tip plate, which is a risky procedure.

With regard to pianos, ivory was used as a veneer about one millimeter in thickness covering keys until better plastic technology developed in the 1930s and 1940s. For example, Steinway & Sons, a leading American piano manufacturer, stopped using ivory on its keys in the mid-1950s.

Many high-end European piano makers continued using ivory until 1989, including Boesendorfer, whose instruments are found in many concert halls. These fine pianos can be worth well more than \$100,000 and are vital tools for concert artists and also the venues that hold them.

Ivory was rarely used as a decorative material on pianos, but came into use as a superior material for key tops in the 18th and 19th centuries due to its easy workability and resistance to wear. While ivory may be preferred by some pianists because it absorbs perspiration and minimizes sticking, it is also more susceptible to chipping and cracking, requiring repair.

Finally, ivory was used in some woodwind instruments, such as clarinets, oboes and bassoons, but, again, in small amounts.

To recap, musical instruments never used large amounts of ivory and whatever ivory use there was was abandoned long ago for a variety of reasons. The Fish and Wildlife Service's proposed ban on further importation and domestic sale of ivory would have a profound and adverse impact on many. For example, the ability of the National Music Museum to add to its collections would be severely impaired. Like most museums, we rely on donations and purchases to enhance our collection.

While I am not a tax expert, it would seem to me that if ivory cannot be sold, instruments containing ivory would be deemed to have no value and, therefore, no deduction for their donation might be available.

If sales are banned, we could no longer go into the commercial marketplace to purchase exceptional instruments with this material. Additionally, if the ban devalues objects made with ivory, it affects our ability to obtain insurance which is necessary for the transportation and loan of museum objects. I would respectfully request that the subcommittee urge Fish and Wildlife to create an exemption.

[The prepared statement of Ms. Sheets follows:]

PREPARED STATEMENT OF ARIAN SHEETS, CURATOR OF STRINGED INSTRUMENTS,  
NATIONAL MUSIC MUSEUM

Mr. Chairman, members of the subcommittee, my name is Arian Sheets and I am Curator of Stringed Instruments at the National Music Museum in Vermillion, South Dakota. Thank you for your invitation to appear here today to discuss how the Fish and Wildlife Service's proposed ban on ivory sales would adversely impact musical instruments, musicians and the museum community.

By way of background, the National Music Museum was founded on the campus of the University of South Dakota on July 1, 1973. Our collection of more than 15,000 American, European and non-Western instruments are the most inclusive in the world. The collection includes many of the earliest, best preserved and historically most important musical instruments known to survive. About one-third of the instruments in our collection are American-made and many—both from this country and abroad—are what can be called “vintage” instruments, that is, less than 100 years old.

I will focus my remarks today on how ivory was used in musical instruments after the early years of the 20th century and how the proposed ban would adversely affect these cultural icons.

In the area of stringed instruments with which I am most familiar, for example, C.F. Martin & Co. (Nazareth, PA) used small amounts of ivory in almost all of its guitars starting with the company's founding in 1833. By 1918, Martin had stopped using ivory for bindings, bridges, bridge pins and friction pin tuners. Martin continued to use ivory for saddles and nuts until approximately 1970, well before elephant ivory was essentially banned. Martin guitars containing ivory range from relatively low-level instruments which may sell today for \$1,500, according to retail sources, to highly desirable models which can bring as much as \$350,000. The ivory saddles and nuts weigh only a few grams each and account for less than 2 percent by weight of the entire instrument, yet that is enough to make the entire instrument illegal for commercial sale under the FWS proposal. Most other U.S. manufacturers did not use ivory to the same extent.

These instruments, like those from other manufacturers or artisan luthiers, are sought after because of their tonal quality and craftsmanship, and not because they contain ivory.

Ivory was also used in very small amounts in the crafting of violin bows, though usage had generally stopped by the early 1980s, replaced with mammoth ivory and synthetic material. An ivory bow tip generally required about 1 gram of unfinished ivory.

Bow makers designed the head of the bow around the physical properties of the ivory tip, which gives the delicate bow head protection, strength and proper balance. Even though ivory use stopped more than 30 years ago, many musicians, including famous artists, still perform with these old, but not antique, bows. Replacing tips with non-ivory material, while possible, is fraught with dangers, not the least of which is the accidental destruction of the bow while removing the tip plate, which is a risky procedure.

With regard to pianos, ivory was used as a veneer (about 1 millimeter in thickness) covering keys, generally until better plastic technology developed in the 1930s and 1940s. For example, Steinway & Sons, a leading American piano manufacturer, stopped using ivory on its keys in the mid-1950s. Tracking instrument age and ivory use by other U.S. manufacturers is extremely difficult, since almost all of the dozens of manufacturers which once operated in this country ceased production long ago; only a small handful of U.S. piano producers remain. Many high-end European piano makers continued using ivory until 1989, including Bösendorfer, whose instruments are found in many concert halls. These fine instruments can be worth well more than \$100,000 and are vital tools for concert artists and venues.

Ivory was rarely used as a decorative material on pianos, but came into use as a superior material for key tops in the 18th and 19th centuries, due to its easy workability and resistance to wear. While ivory may be preferred by some pianists because it absorbs perspiration and minimizes key “sticking,” it also is more susceptible to chipping or cracking, especially at the ends, and is prone to discoloration over time, sometimes requiring repair.

But the “bottom line” is that, like other instruments, ivory has not been used in piano manufacture for decades.

Finally, ivory was at one time used in some woodwind instruments, such as clarinets, oboes and bassoons, but again in small amounts as turned rings and section dividers. Woodwind manufacturers have not used ivory in many decades.

To recap, musical instruments never used large amounts of ivory and whatever ivory use there was long ago abandoned for a variety of reasons. While only about

5 percent of the National Music Museum's collection contains ivory, many thousands of guitars, violin bows, pianos and woodwinds which do contain ivory are still in use today by amateurs and professional musicians, and are owned and acquired legally in the past by many American families. Higher-value historical instruments, including those desirable for exhibition, use, and preservation, are more likely than average to contain ivory by virtue of its excellence as a working material.

The Fish and Wildlife Service's proposed ban on further importation and domestic sale of ivory would have a profound and adverse impact on many. In most cases, current owners of objects containing ivory lack documentation of the import of the ivory into the United States, which could act to effectively ban the sale of even antique objects which have been in this country legally for decades or centuries.

For example, the ability of the National Music Museum to add to its collection would be severely impaired. Like most museums, we rely on donations and purchases to enhance our collection. While I am not a tax expert, it would seem to me that if ivory cannot be sold, instruments containing ivory may be deemed to have no value and therefore no deduction for their donation might be available. And if sales are banned, we could no longer go into the commercial marketplace to purchase exceptional historical instruments with this material. Additionally, if the ban devalues objects made with ivory, it affects our ability to obtain insurance, which is necessary for the transportation and loan of museum objects.

Individual musicians, whether amateur or professional, could not purchase replacement instruments containing ivory, nor would they be able to sell instruments that are no longer needed. These instruments are essential "tools of the trade" for both full-time and part-time musicians. Because instruments are hand-crafted and uniquely matched to the performance needs of musicians, they represent substantial personal investments that are critical to performance success. Musicians generally do not purchase instruments because of their ivory content; the presence of ivory is generally only incidental to the overall quality and playability of an individual instrument.

While on the subject of individual musicians, I would also note that the abrupt imposition of a Fish and Wildlife Service order in mid-February has caused confusion and concern among individual musicians and organized groups such as orchestras. While museums may have in place procedures to comply with the often-complex permitting requirements required by FWS, many individuals and groups are in need of a more transparent, simpler process for obtaining the necessary permits to travel with their instruments and perform internationally.

Another area of particular concern to our museum is our ability to transport historical objects containing ivory for national and international exhibitions. While we understand the permitting process for CITES-listed species, the new proposal may make it impossible to loan many instruments to institutions outside of this country. It is also not clear whether domestic loan would be possible. And at least one major piano moving company had recently indicated it will not accept ivory-containing instruments for transport, further hampering loan possibilities.

Music is an essential element of our cultural heritage and individual instruments can be played for decades, or even hundreds of years. Banning the sale of certain high-quality vintage musical instruments will, in my view, impair the future of music in the culture of the United States.

I would respectfully request that this subcommittee urge the Fish and Wildlife Service to create an exemption from any sales ban for musical instruments or products containing only a small amount of ivory.

Thank you again for the invitation to appear here today. I would be happy to answer any questions.

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Dr. FLEMING. Ms. Sheets, your written testimony will be in full in the record. So we appreciate it.

Ms. SHEETS. OK.

Dr. FLEMING. I want to make sure that we get a chance for questions here.

Next Mr. Quinn.



**STATEMENT OF MATTHEW QUINN, QUINN'S AUCTION  
GALLERIES**

Mr. QUINN. "The United States shall seek to reduce the demand for illegally traded wildlife both at home and abroad while allowing legal and legitimate commerce involving wildlife." That is what the President said in the executive order Mr. Hayes referenced.

So Chairman Fleming and Ranking Member Lowenthal, I thank you and the other committee members. I thank you for having me today.

My name is Matthew Quinn. I am with Quinn's Auction Galleries in Falls Church, Virginia. We are about 6 miles from here, and we routinely offer products that contain ivory or are made of ivory for members of the community as they are dealing with the loss of a loved one or throughout that process.

I am here today to help explain the impact of where this would go. I started with that quote because I knew that when the President's team that drafted that, they did it with intent. It was carefully crafted, and the funny thing is I have yet to see the words "while allowing legal and legitimate commerce involving wildlife" to show up in any document put out by the Fish and Wildlife Service, the Advisory Task Force, the Council or anywhere. I have looked, I have looked, and I have looked, and even in Mr. Hayes' testimony a minute ago I did not hear the words "allowing legal and legitimate commerce." I think we have moved a bit too fast.

My job as I work with people across the country and primarily in this area is to help maximize value. On the 25th of February when the Director's Order 210 was issued, that job became extremely difficult.

I want to start and talk a little bit about a couple of stories that can maybe best represent where this would happen. My first one is a woman by the name of Helen Mang. Her and her husband traveled the country, traveled the world, and they collected an object called netsuke. You can see it on the image here. This is one example.

They had 1,100 pieces that they had collected over a 50-year period. I do not know when they bought their last one exactly, but they were buying in the 1940s, 1950s, 1960s. When she died I think 2 years ago in January, she was a few months shy of her 100th birthday.

We offered this for sale one day. She had initially approached us to begin to sell that because she was running out of money to pay for her health care. She had managed numerous assets, and when it came down to it, this was her last piece that she had brought to the table, and we began to offer that for her, and we did generate an awful lot of money.

Most of these pieces were exclusively 18th and 19th century. The fact of the matter is we have been a collector society in American since World War II, before World War II, but certainly after World War II. People collected objects. They collected Hummels, coins, stamps, you name it. I am sure many of us have, and a lot of those objects included ivory. Ivory was absolutely no exception.

One of the things that I have included in my testimony, and I would encourage you to go and read it, is a document put together by Lark Mason. Lark Mason is a New York auctioneer and an

associate of mine, a good friend, and he is very knowledgeable in the industry. He has put together this document that really details how many pieces are out there, and it is in the hundreds of millions.

He states today that there are probably between five and seven million pianos containing ivory out there in America still, and if we do not go through the promotions and have proper research analysis and oversight, if we move forward the way things have been, millions of unknowing Americans will be affected.

The next photo I am going to show you is actually a document of the Mang's collection. If you look at this we see items, numbers, dates. On the far right side we see when they bought it. It has actually been cut off a little bit. It will be included in your packet. It shows all of the information. This is unbelievable documentation for a collector.

Yet it would not meet the criteria of what Fish and Wildlife has proposed. It would be hard to find someone that would have better.

Let us go on to the next one if we could. This is an ivory portrait miniature. This is signed and dated in Philadelphia in 1795 by a member of the Peale family, some of the most noted artists in America, that piece signed and dated. I do not know when it came in. I do not know if it actually came in prior to 1795 when it was painted in Philadelphia. So those are things we have to look at.

So let us go on to the next one here, which is a teapot. This has two little, tiny white pieces on the right side. Those pieces are ivory, and those should be noted. That 1861 teapot from Baltimore under certain regulations would have been illegal.

I will note that revised Director's Order 210 allows for some of this, and we are working together to try to figure this out, but we are not there yet, and I encourage your involvement.

The next thing I want to point to is Mrs. Heather Foley agreed to accompany me, and I have a physical teapot that I will ask Marc to pass around if he can, if that is possible.

Thank you.

And you can actually see those objects, and you can take a look at that from a point of reference. I have been working with Heather and her husband Tom to sell their collections.

You see the pot in front of me? This one also has ivory in it.

My last note I want to close with is the December 16 Advisory Council meeting. There is a statement that says, "From a business perspective, the Council noted a total ban would be the easiest administrative solution notwithstanding the Fifth Amendment question."

And I note the word "easiest." I did not realize the easiest was the appropriate way to manage public policy, and I doubt that this Congress or Administration does either.

I know it is difficult to identify this stuff. I know it is difficult to identify the age. There is a group of items that I would encourage you to look at that we do not have time to pass around. Look at those and see how difficult it is.

Thank you so much for having me, and I look forward to questions.

[The prepared statement of Mr. Quinn follows:]

PREPARED STATEMENT OF MATTHEW QUINN, QUINN'S AUCTION GALLERIES, FALLS CHURCH, VIRGINIA

*" . . . 1. (d) the United States shall seek to reduce the demand for illegally traded wildlife, both at home and abroad, while allowing legal and legitimate commerce involving wildlife."*

—The President of the United States, Executive Order 13648, July 5, 2013

Chairman Fleming, Ranking Member Sablan, and distinguished members of the subcommittee, thank you for the opportunity to address this subcommittee today. My name is Matthew Quinn of Quinn's Auction Galleries in Falls Church, Virginia. The second part of the statement I just read above, which was carefully crafted by the White House, has somehow gotten lost or ignored. What I am about to share with you today hopefully will enlighten you on the harsh impact on the American people of the Administration's proposed comprehensive ban on the sale of ivory. The magnitude of the impact on the American people is far more reaching than one might think, I am quite certain it will impact the majority of all Americans and certainly most of us in this room.

While many throughout the antiques, art and auction trade share my views in this testimony, I speak to you today representing only my firm, Quinn's Auction Galleries, and my clients. Quinn's Auction Galleries has served the greater Capital Area for nearly 20 years assisting individuals dealing with the loss of a loved one or just the need to sell items. Sometimes we work with families that desperately need the money, and other times we simply help our customers sell items that they can no longer use. We work diligently to make sure that we can maximize the value to the seller. As so often happens, most of the families we work with have some sort of ivory, or other product from an Endangered Species Act regulated wildlife, in their home. I have worked closely with U.S. Fish and Wildlife Service (USFWS) agents to stay within the law, and that task became extremely complicated on February 25, 2014, with the issuance of USFWS Directors Order 210.

I would like to share with you a couple of customer stories that illustrate the devastating impact of these government actions that carry unintended consequences.

A few years ago I had the genuine privilege to work with Mrs. Helen Mang. She was 99 years old and sharp as a tack. I sat in her room at the care facility she was living in and heard marvelous stories of her and her husband's travels throughout the world collecting these little Japanese carvings called Netsuke. She would talk about one; where she got it, what she paid for it, and practically what direction the wind was blowing when she described it. It was their passion, their collection and their investment for the future. Helen and Jack were not unlike many Americans who choose to diversify their financial portfolio with collectible objects. Enclosed is a copy of the sale catalog for her collection of over 1,100 pieces of Japanese carvings where more than half were either made entirely of ivory or had some sort of ivory in them. There came a time when she looked to sell her collection to assist with some of the vast expenses of care in her nursing facility. Sadly, she didn't live to see her collection sold, and this sale was a great memorial to her and Jack's life. If this outright ivory ban moves forward as suggested by USFWS and the President's Advisory Council, then the Mang's collection—which was predominantly 18th & 19th century and completely legally acquired and held for decades—would be without much value. Japanese Netsuke are tiny pieces of Japanese culture carved out of one of the most precious materials they knew at the time. The picture attached shows one such carving. Helen purchased this piece from a Washington, DC dealer on October 1, 1953, for \$55. It was made in the 18th century in Japan in the Kyoto area as indicated by carving and subject. When this one item was sold, you will see on the sample page of this very meticulous collector spreadsheet that even all the information that she has collected would not satisfy the "antique exemption" standards that have been proposed by some of the Federal rule changes.

Americans have collected Netsuke and other pieces containing ivory for many decades. Following World War II, America was very much a collector society, and it was popular to collect things like Hummel figurines, collector's plates, coins, stamps and so many other items. Items containing ivory were no exception, and it was completely legal in 1945 . . . 50 . . . 60 and 1970! I have attached a document assembled and written by Lark Mason, a prominent New York fine art and antiques auctioneer, and submitted to the State of New York. His document estimates that the nearly 4 million Americans stationed in Japan during the middle of the 20th century brought back between 1.5 million and 2.5 million objects containing some measure of ivory. Mr. Mason's document is impressive and worthy of a good read. He cites that there are between 5 million and 7 million pianos alone with ivory keys

in the United States, and hundreds of millions of total objects estimate in America today.

Without proper research, analysis, thorough review and oversight, such quick administrative actions such as the proposals put forth by USFWS will adversely impact millions of unknowing Americans, including my customers.

To illustrate the matter more tangibly, I have included several pictures of objects that most people do not realize have ivory in them, and that they were made in America hundreds of years ago. The first is a portrait miniature. It is about 3 inches tall and was painted in Philadelphia in 1795, and is signed and dated. From the picture you can see that the value of this object is indeed based on the artistry of James Peale, one of the most important families in American art history, and its painting on ivory would render it of no value if this ban moves forward. Mr. Mason's document also estimates that as many as 3 million to 5 million portraits like this exist today. Virtually all but some tourist copies were made over 100 years ago, and the copies were done long before the Endangered Species Act was enacted.

The next picture that you see is a teapot made in 1861–1868 in Baltimore, Maryland. It is also signed and dated, as all silver products are. Upon close inspection, you will see two small white pieces that are ivory. In this case they serve as insulators to keep the heat from the hot coffee or tea from reaching the silver handle. Teapots like this number in the hundreds of millions globally, and Lark Mason's conservative estimates suggest that there are 10 million plus tea sets left in the United States, despite the recent spike in the price of silver that has led to millions being melted for their silver content.

While we are on teapots, I have asked that Mrs. Heather Foley join me today at the hearing. I have been working with Heather and her husband Tom, while he was alive, to assist them in selling some property. She graciously agreed to attend today, as she understands the burden such a ban can have on the American people. Heather brought with her a teapot that she and her mother bought over 40 years ago in Egypt. It also has ivory insulators. I will pass it around for you to see more closely. I will also reference as part of this testimony her letter to the Advisory Council that I presented with my testimony for the record at the Advisory Council's March 20th meeting in Arlington, Virginia.

In addition, I have brought with me a teapot that was made by Georg Jensen in the Cosmos pattern. I will pass this one around as well. This teapot is signed and dated with marks that date it from 1945–1977. I am told from Georg Jensen that they discontinued using ivory in the late 60s; however, to this day they still use Mammoth tusks in their production.

This leads me to my next point.

In the Advisory Council minutes from the December 16, 2013, meeting, in a paragraph spanning pages 4–5, it states: "From a business perspective, the Council noted that a total ban would be the easiest administrative solution, notwithstanding the 5th amendment question."

Easiest? I didn't realize that "easiest" was the appropriate way to manage public policy, and I doubt the Congress or the Administration does either. One of the reasons that the Advisory Council appointed by the President said "easiest" is because of the immense difficulty in determining what species of ivory might be used and how old it is. I know from experience that it would be equally difficult for enforcement officers to determine the differences between Marine Ivory, Carved Antler, Bone, Vegetable ivory or even Bakelite and other plastics. I will pass around a few samples that are labeled for your inspection. We surely would not consider banning all of these substances in order to take the "easiest" path.

The art and antiques trade routinely handle the variety of substances that I describe above and are trained to tell the difference with relative ease. We are accustomed to the various carving techniques, quality, the subtleties of each substance, and the types of materials that objects have been made with over the past centuries. We are in fact here to, and happy to, help government regulators and policymakers with these complex issues.

I strongly believe that no legitimate antique dealer, appraiser, or auctioneer supports the elephant poachers, and we all realize that this is in fact a global problem that needs to be addressed. However, I am, on behalf of my trusted colleagues in the trade, asking that this committee and the U.S. Congress halt this rulemaking process and consider reasonable solutions so that any final policy's impact on the American people can be fully considered. We must work harder to find a solution to both protect the elephants and the American people, which are not mutually exclusive. That is why I am here today and why I stand ready to help and preserve "... legal and legitimate commerce involving wildlife."

Thank you for your time and for your consideration of my business and consumer viewpoint. I look forward to responding to any questions you might have.

Dr. FLEMING. Thank you, Mr. Quinn, for your testimony.

Next up an Air Force combat veteran, a hero from the Bosnian conflict, Scott O'Grady.

**STATEMENT OF SCOTT O'GRADY, RETIRED, UNITED STATES  
AIR FORCE**

Captain O'GRADY. Thank you, Chairman Fleming and Ranking Member Lowenthal and other members here today, for the opportunity to testify before the subcommittee.

My name is Scott O'Grady. I am an Air Force veteran, and I am a conservationist. I passionately believe that we all have a unique responsibility to conserve wild places and wild species.

I am a member of many U.S. based conservation organizations, including Safari Club International. SCI has over 50,000 members worldwide, and through its affiliated organizations, they represent an additional seven million hunter conservationists.

I was asked to be here today because I have recently hunted elephant in Zimbabwe. It was an amazing experience. From this I have the first-hand experience to accurately describe what it takes to manage wildlife sustainably in the rural and economically depressed regions of Africa.

This year on April 4, the hunter conservationist community was shocked by a decision of the Fish and Wildlife Service to immediately ban all U.S. importation of sport hunted elephants from Zimbabwe and Tanzania. This decision is devastating to the wildlife management in Africa.

First I would like to state clearly that hunters are conservationists. In the United States over 15 million American hunters pay for the bulk of conservation funding. American hunters play the same role in Africa.

Poaching, on the other hand, is an abhorrent activity that everyone condemns. No one despises poaching more than the hunter conservationist. Having now traveled to Africa to hunt on five extended safaris, I can provide a unique perspective on how anti-poaching is conducted in the vast wilderness of Africa. African government agencies that are responsible for wildlife management are financially dependent on hunters, primarily U.S. hunters. In Zimbabwe, U.S. hunters represent roughly 60 percent of their clients, and in Tanzania U.S. hunters represent nearly 90 percent of clients.

With the money generated from sport hunters, the government agencies are able to pay for anti-poaching patrols on millions of acres that otherwise would be devoid of law enforcement personnel. The private businesses and outfitters that manage much of the wild lands of Zimbabwe and Tanzania employ scores of anti-poaching patrols to privately supplement the government personnel.

Safari hunting businesses in Tanzania manage roughly 30 percent of the entire country for wildlife. Lands in Southern and East Africa have three main uses: first, subsistence farming, which has very little economic value; second, herding for cattle and goats, which generates about a dollar per hectare; and then, third, wildlife hunting, which generates around \$7 to \$10 per hectare.

Every time a U.S. hunter is dissuaded from traveling to Africa to hunt by government regulations, the acres where they would have hunted will likely be converted away from the wilderness and into economic activities like farming and pastoralism. Wildlife is the biggest loser in this equation, and wildlife will be viewed as a pest when it has no value.

The Fish and Wildlife Service's ban imposed on U.S. hunters is a poor policy decision in regards to wildlife conservation in Africa. This ban has caused a significant breach of confidence with the African communities who live and work with their wildlife and with the U.S. hunters who help pay for the management of that wildlife.

On May 8 I had the opportunity to address Fish and Wildlife Service leadership about their decisionmaking process. I asked what science they had justifying their decision, but the response was an anemic, "We have no scientific justification."

The Fish and Wildlife Service must immediately reconsider their decision and allow importation of sport hunted elephants from Zimbabwe and Tanzania. The ban on importation into the U.S. defunds wildlife management in their countries. Without U.S. hunters in the field, there will be a vacuum in which only poachers profit.

I would like to thank the committee for their time today on this important issue. I hope to see an immediate reversal of this policy because it is causing immediate damage to sound wildlife conservation efforts in Africa today.

Thank you.

[The prepared statement of Mr. O'Grady follows:]

PREPARED STATEMENT OF SCOTT O'GRADY, AIR FORCE VETERAN

Thank you Chairman Fleming, Ranking Member Sablan, and other members of the Subcommittee for Fisheries, Wildlife, Oceans, and Insular Affairs, for the opportunity to testify today.

My name is Scott O'Grady. I am an Air Force Veteran and I am a conservationist. I passionately believe that we all have a unique responsibility to conserve wild places and wild species. I am a member of many U.S. based conservation organizations including Safari Club International. SCI has a membership of over 50,000 worldwide conservationists and through its affiliated organizations across North America, Europe, and Africa they represent an additional 7 million hunter-conservationists. The Safari Club International Foundation hosts an annual conference in Southern and East Africa. This conference brings together representatives of numerous African governments, professional hunters, and community leaders to share best practices in sustainable conservation. The responsibility to develop sustainable wildlife management programs that protect wildlife habitat and ensure financial stability for communities living with wildlife is a serious task that requires serious consideration. As a conservationist I am proud to see the U.S. Congress hosting this hearing today to discuss vitally important issues of species conservation in Africa.

On February 25, The U.S. Fish and Wildlife Service issued Director's Order 210. The Director's Order includes new staff guidelines that will impact hundreds of thousands, if not millions of unsuspecting U.S. citizens. Director's Order 210 prohibits the importation of antique ivory, as defined by the Endangered Species Act, for commercial purposes. Before Director's Order 210, Americans could import items that contain ivory that were at least 100 years old for commercial purposes. Under Director's Order 210, that is now illegal. Many businesses will greatly suffer due to this change. Director's Order 210 also seems to place a heavier burden on individuals that already own antique ivory and want to sell it. Many Americans own antique jewelry, pianos, musical equipment, firearms, knives, and furniture that contain ivory. Under Directors Order 210, these U.S. citizens can now be prosecuted for simply trying to sell a family heirloom if they do not have sufficient documenta-

tion proving it is at least 100 years old. Other than paying to have the item professionally appraised, the Fish and Wildlife Service has not told the American public what is sufficient to prove that their possessions meet the antique exemption. Under Director's Order 210, these U.S. citizens can now be prosecuted for simply trying to sell a family heirloom. The policies of Director's Order 210 provide no benefit to anti-poaching efforts in Africa.

On April 4, 2014 the hunter-conservationist community was shocked by a decision of the U.S. Fish and Wildlife Service to immediately ban all U.S. importation of sport hunted elephants from Zimbabwe and Tanzania. Neither the hunting community nor the wildlife management authorities of Zimbabwe and Tanzania received any warning of the abrupt importation ban.

For Zimbabwe, the FWS relied on a lack of information to impose the ban, rather than concrete current information about the status of elephants and anti-poaching efforts in the country. Shockingly, the FWS did not even ask for this necessary information until after it shut down elephant importation. What little information the FWS did examine was outdated and inaccurate. And despite the fact that the FWS was well aware that hunting revenues provide the sole source of funding for Zimbabwe's wildlife management authority, the FWS nevertheless deprived its sister agency of the resources necessary to conserve elephants and fight poaching.

For Tanzania, the FWS's failure to communicate with Tanzania's wildlife management authority before making the decision to impose the ban violates a 2009 Memorandum of Understanding signed by representatives of our government and the government of Tanzania. The ban also fails to recognize Tanzania's efforts and successes in battling against elephant poaching.

Instead of helping Zimbabwe and Tanzania fight illegal trafficking and conserve their elephant populations, these bans undermine their efforts, deprive them of the resources they need to protect their elephant populations, and diminish the value of these animals to anyone except poachers. The damage that our government has done with these bans grows greater every day.

I was particularly shocked by this decision. I had recently returned from a 3-week safari in Zimbabwe, and I can personally attest that their elephant population is not only robust, but is exceeding the land's carrying capacity. By eliminating hunters like myself from the landscape of Zimbabwe and Tanzania, the U.S. Fish and Wildlife Service is doing a disservice to the communities and individuals who work with wildlife in these countries. Without the consistent spending from international hunters, the ability for communities to plan for their future is in doubt. While on my hunt, I was joined by representatives from the Zimbabwe Parks and Wildlife Authority and by the Forestry Commission. Their responsibility was to make sure that my hunt, just like every other hunt, followed the letter of the law appropriately. These agency representatives were also there to oversee that anti-poaching efforts were in place. I personally witnessed anti-poaching units in the field patrolling the areas where I was on safari. Without the funding from hunting safaris the anti-poaching patrols would not exist and the result would be rampant poaching. The Zimbabwe Parks and Wildlife Authority and the Forestry Commission rely upon funding each year from safaris to pay for anti-poaching resources. One year without this funding would shut down their operations. The results will be catastrophic to the protection of the elephants, other wildlife, the ecosystem and the economic impact to the local communities if the U.S. FWS continues down its current path.

My safaris were the fulfillment of a life-long dream. I used my savings to pay for the safaris knowing the importance of my finances contributing to the conservation of the local wildlife and economy. The cost of my two safaris for a total of 30 days was US\$75,000. Of this, \$27,000 was for government elephant fees, \$4,500 for Concession fees, \$2,000 for Taxes, \$300 for other tags and permits, plus \$5,000 for gratuities and other costs for travel. My direct financial contribution ensures that wildlife in Zimbabwe has more value than just meat on the table, or worse—elephants seen as a pest species.

This year my projected income is less than what I spent on the safaris. But I know the money I spent maintains elephant conservation efforts in Zimbabwe and it was absolutely worth the cost. My personal contribution continues to add value to the overall elephant population in Zimbabwe so that Zimbabwe's agencies and local communities can sustain their anti-poaching efforts.

The FWS ban is causing elephants to have less and less financial value. Safari operations will cease to exist and the anti-poaching resources provided by those companies, paid for by U.S. hunters, will also cease. The result will be an open season for poachers, who unlawfully and indiscriminately kill anything for food and money.

The American hunter is not the problem. Instead the American hunter is a part of the solution to protecting and preserving African elephant populations. The FWS

ban was instituted without the good faith of working with their colleagues in Africa. It was made without consideration for the real impacts on the communities throughout these two countries who will be forced to convert land away from wildlife to less economically viable uses. It was made with the deliberate act of keeping American hunters, the primary financial institution for anti-poaching in the dark. This ban is focused on eliminating the greatest resource for elephant conservation efforts, which is the American hunter. The ban should be immediately lifted and current scientific wildlife data should be reviewed for proper ecosystem management.

I would like to thank all the committee members for your attendance today and for your willingness to understand a very complicated situation in remote areas of Africa. In the United States over 15 million American hunters and 30 million American target shooters pay for the bulk of conservation funding from which all U.S. citizens enjoy an improved outdoors. American hunters play this same role in Africa. I implore you to reverse this ban immediately, rely upon sound scientific wildlife management and the role of American hunters to wildlife conservation and anti-poaching efforts in Africa.

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Dr. FLEMING. Thank you, Mr. O'Grady.

We are now at the question and answer period. I now recognize myself for 5 minutes.

Ms. Sheets, could you describe for us the impact of the Director's order, Fish and Wildlife Service's plan on your museum? What impact is this going to have?

Ms. SHEETS. Well, the immediate impact is, of course, that we will no longer be able to commercially acquire instruments containing ivory particularly from overseas. Constantly historic instruments are coming up to auction.

In the past we have raised money to purchase instruments. That would be impacted. There is also the lack of clarity on commercial value if the sale of these objects is forbidden.

Most of our acquisitions at this point are through donation, and our donors receive a tax deduction for that. So that would be impinged.

Also we have to acquire commercial insurance in order to loan objects. If there is no commercial value, we are not able to acquire that insurance potentially, and that impacts especially our overseas loans. We have the potential to loan objects containing ivory for educational purposes overseas. That would be endangered.

So certainly not just ivory possession, but possession of other very historical, very valuable things would be devastated and would in some cases yield something very valuable to having almost no value.

Ms. SHEETS. That is true, and these objects are part of our history. We wish we could go back in time and change the fact that they killed elephants to make them, but we cannot.

Dr. FLEMING. Well, if 100 years ago they knew that this rule was going to come out, maybe they would have created some sort of certification or documentation, but obviously that was not foreseeable.

Mr. Quinn, do you support a de minimis requirement in the regulations?

Mr. QUINN. I think a de minimis requirement is part of what needs to happen, and that ultimately has to be maybe more narrowly defined. Is it a percentage? Is it an amount? I think we have to work to figure that out.

As we look at objects like the teapot I brought and Mrs. Foley's teapot, you know, those objects—this one has a date mark from



1945 to 1977. Mrs. Foley, she acquired with her mother in Egypt 45 years ago. So those are not antiques.

So how do we begin to look at those and to make sure that the assets of the American people are protected? I think a *de minimis* is a key part of that when it comes to certain types of objects. These are the ones that typically have more value, and I think we need to look at that.

It has to be done in conjunction with an antique exemption. I do not think it can be done alone.

Dr. FLEMING. Right. And Captain O'Grady, you seem to have a lot of passion about hunting and sportsmanship and so forth, and you made a comment that I completely agree with, and that is who would have more of an invested interest in conservation than hunters themselves; the same for fishermen. I would love to hear your comment on that.

Captain O'GRADY. Yes, sir. That is why this issue of a ban on the importation only applying to U.S. hunters is so dear to my heart, because it is going to have the reverse effect. It is going to actually be the cause if it is kept in place for the decimation of the African elephant because it is going to take the greatest conservationists for the African elephant out of the equation, and that is the American hunter who is the front line defense, boots on the ground, stopping the poaching.

One of the greatest things that I was able to experience while I was in Zimbabwe in March this year in four national forests on African safari for elephant was to see that my funding was going to anti-poaching, with anti-poaching patrols in the field day and night camped out, protecting the area where I was on safari. To know that I was a part of that conservation effort was very enriching.

Dr. FLEMING. So by stopping legal hunting and legal importation, then what is in effect happening is that the actually opposite effect of that desired, which is to lose elephants.

Now, finally a quick question for Mr. Hayes. Since you were a political appointee with the Obama administration and worked with Secretary Jewell, why do you believe that no representatives from an ivory producing country or state or territory, a professional hunting association, an auction house, a music company, museum director, a sport hunting organization, et cetera, et cetera, et cetera, is on the Advisory Committee or Advisory Council, are not on that? All of these different interest groups it would appear should be and yet they are not.

Mr. HAYES. Mr. Chairman, I had left the Department in early July, and the decisions about who should be appointed to the Advisory Council were made in September. I had no involvement in those decisions.

Dr. FLEMING. If you were there, would you have suggested that they should?

Mr. HAYES. I think the effort, as explained in the executive order was to get experts involved on the council, and for example, the Deputy Council of eBay, which previously was a major seller of ivory, is on the Council.

Dr. FLEMING. I am running out of time.

Mr. HAYES. Sure.

Dr. FLEMING. But I listed those organizations. Would you agree or not agree they should be on there?

Mr. HAYES. I do not think you can put everybody on an Advisory Council. I think the key thing is for the Advisory—

Dr. FLEMING. How about just one of those? Would you have agreed with just one of them?

Mr. HAYES. It depends on who it is, Mr. Chairman.

Dr. FLEMING. OK. My time is up.

Mr. LOWENTHAL. Thank you, Mr. Chair.

I have listened to this wide range first in the panel and in the first panel and discussions among members, and I am trying to come to grips with why we are here and what have I learned and what are the critical issues and what do we agree upon and what do we not agree upon and what should we be working on.

It seems to me that what we all have in agreement and the core fundamental issue is that we are here to talk about the sustainability of the population of elephants, especially African elephants. We are engaged or what is happening is that we must engage in certain things to ensure the sustainability because without it the elephant will become extinct or potentially could become extinct. That is the first thing.

Second is that poaching has changed; that what we have talked about in the past about poaching, now poaching has become an operation of organized criminal element and not individuals, although there is probably some of that, too, and terrorist organizations of such a magnitude that they engage with helicopters, high tech equipment, that the very nature of poaching has changed.

The third issue is that there is a national strategy that the President and the Administration is trying to put forward that builds upon already existing legislation that has already been out there, and the question is, and there are a lot of things that we agree upon and do not, and I want to find out what those critical issues are.

One is that hopefully I want to find out whether we all agree upon that prohibiting the commercial import of African elephant ivory is in our Nation's and in the elephant's best interest, the sustainability part of this strategy. Is that true or not?

Second is, are we going to prohibit the commercial export of elephant ivory. That is a critical issue. Are we going to restrict domestic resale of elephant ivory, except under certain kinds of conditions, and that is bona fide antiques, and that raises another question of what is an antique. How do you identify anything as an antique? Is it truly an antique? Whose responsibility is that?

That is what we should be discussing and those are critical issues, but the issue is unless it's an antique, we have to come to agreement we are not going to allow the commercial sale of, and domestic.

Another one is sports hunting. It does not seem to me the issue is really whether sports hunting is good or bad. We know sports hunting is a practice that is going on and, you know, whatever it is we are going to maintain it. The question is should we put limits on the amount of sports trophies that come back, and we are proposing two. Is that a fair limit?

And the other one is why is there not a ban. Why is there a 1-year suspension of sports hunting elephants to come into the country from Tanzania and Zimbabwe? It is only 1 year, through the year 2014, and it is because the Fish and Wildlife Service has suspended it for 1 year because they say there are questionable management practices and a lack of law enforcement there and weak governance.

The question is: as we move forward into 2015, can that be corrected? That is the issue. And will those two countries have the same restrictions that everyone else has? And the question before us is: are those reasonable kinds of things? Should we be saying two per year of sports hunting trophies that can come into the country?

And how do we decrease the demand for ivory products in this? And how do we go after those in a meaningful way who have been criminals? Should we increase the penalties for this?

Those I think are the critical issues. I do not think spending all the time on whether something is an antique or not here or getting on is really the critical issue or pro- or anti-sports hunting. That is not the issue.

The issue is are these reasonable kinds of standards that will help to sustain the population. That is what it is all about. So to me those are the things I think this committee needs to deal with, and I thank everyone for bringing us this information.

I don't have any specific questions more. I have been educated. I do not think we have come to consensus. I do not think we are too far apart. I think there are certain small issues on—and I know others will say they are not small in terms of we are hurting the sports hunter—I do not think that is the issue. The issue really is, is this a legitimate number, the number two. That is what is being proposed, and then in the future should this 1-year suspension be lifted.

And the same thing is how do you demonstrate something is an antique.

And with that I thank the Chair for holding this committee hearing and for educating me.

Dr. FLEMING. I thank the Acting Ranking Member. Thank you for your comments.

Mr. Young is recognized.

Mr. YOUNG. Thank you, Mr. Chairman.

I thank the panel.

You know my frustration. You have been in the audience with the Fish and Wildlife. Like I said, they have been sort of like the guy that grows pot. He has been using his own product. This does not make sense.

But Congressman Fields, thanks for your testimony. I was one of the co-sponsors with you of the 1988 Act. Did you ever envision that this law would be used to destroy the economic value of millions of items legally acquired by Americans over the years?

Mr. FIELDS. Absolutely not.

Mr. YOUNG. It was never the intent, was it?

Mr. FIELDS. Never discussed.

Mr. YOUNG. OK. What was the purpose of the Act in your memory for the sport hunted trophy exemption?

Mr. FIELDS. Well, this was, as I mentioned a moment ago, collaborative. We worked both sides of the aisle. We worked with all stakeholders, and we all determined that sport hunting was biologically neutral and that the insignificant take had no effect on the sustainability of the elephant population.

Mr. YOUNG. OK. What would be the impact upon programs like CAMPFIRE, which is very vital?

Mr. FIELDS. Well, and it decimates it. If I could, let me respond just in a way to Mr. Lowenthal because I think your questions were very well framed, and I would like to have an opportunity to talk with you more.

Mr. YOUNG. Do not use too much of my time with Mr. Lowenthal.

Mr. FIELDS. Just one quick example.

Mr. YOUNG. OK.

Mr. FIELDS. Because the question was: can 1 year really make a difference? One year can make a dramatic difference, and let me talk about Hwange National Park in Zimbabwe. I am very familiar with that area.

There are about \$525,000 a year generated through sport hunting the African elephant. Eighty-five percent of that goes into the local community. That is a gigantic sum of money for that one area for 1 year.

And if we are not careful, what the Fish and Wildlife Service has proposed converts the elephant from having economic value to being something that was referred to a moment ago as a protein source, that has a value in addition to the tusk.

Mr. YOUNG. OK. I just hope somebody else heard that.

Mr. Fields, Congressman, do you find it curious that the Administration did not request an increase in the funding of Fiscal Year 2015 for the African Elephant Conservation Fund? After all, this fund has been the only contiguous source of money sent to Africa by ivory producing countries to stop poaching.

Mr. FIELDS. Well, in the past 26 years, 467 projects have been funded to the tune of about \$31 million. So the answer is, yes, I am surprised.

Mr. YOUNG. Well, again, it shows the hypocrisy of this whole situation. We have a Fish and Game department that is, again, like smoking wacky weed, you know, and they are coming out saying this is going to stop the elephant decline, and yet they did not request any money to stop really the poaching.

You hit it right on the head. Follow the money, the poaching, not from this country. I think it is going to be very harmful.

And, Mr. Fields, we all want to save the African elephant. Like I say, I have been sponsoring that bill and there have been others, and I am all for it, and to help to eliminate poaching would be an excellent start. Nevertheless, please tell me how you think destroying the value of an ivory chess set which is 75 years old would save an elephant in Africa.

Mr. FIELDS. Well, it would not, and as I suggested a moment ago, to me that is collateral. I think what has been discussed about the poacher, what has been discussed about the countries that allow poached ivory to enter their borders, those are the two enemies. I mean that, if you are really sincere about preserving the elephant, preserving a sustainability in the herd is to go after the poacher

and to go after the countries that allow the poached ivory to come in.

Go after the market side. Follow the money.

Mr. YOUNG. Yes, and it goes back to a de minimis type of ivory and that teapot. I sit here and I think, "What are they thinking?" Mr. Ash says, "Oh, no, that is now illegal," that little teapot, the one you've got that little piece of ivory in.

I just cannot imagine what they are thinking because this is not going to help. I go back to my original statement. I have a pistol with an ivory handle on it, if you want to call it, and it is old. I do not know where in the hell the ivory came from. I cannot document it, and the value of the weapon is the age of the weapon plus the ivory grips, and if I lose the ivory grips, the pistol will lose all of the value.

That is a taking. That is against the Constitution as far as I am concerned. We can argue all they want. This is a classic example of an agency, again, that does not know what they are doing trying to appease a few people that do not know what they are doing, and I suggest respectfully, Mr. Chairman, let us listen to those countries that are directly involved. They are trying to evolve and save the animals through good conservation, not some bunch of interest groups that have this guise of "I want to save the elephants."

I thank the panel, too. I was listening to the lady with the museum. We will talk about that later because it does decrease the value. You will have a hard time maintaining your museum.

Thank you.

Dr. FLEMING. Mr. DeFazio.

Mr. DEFAZIO. Thank you, Mr. Chairman.

I had to go to my office, but I was listening as I was also meeting with people. It was a little weird, but they forgave me. At least they got half of my brain.

And I observed that both Mr. Hayes and Representative Fields were on a fairly common theme in terms of actions that we could take nationally, internationally that follow the money and sanction those countries where we are seeing this flow.

Maybe first Mr. Hayes and then Representative Fields. I mean, as I see it, we could currently use Pelly; is that not correct?

Mr. HAYES. That is correct, Congressman.

Mr. DEFAZIO. Has there been any discussion by this commission or group, Your Honor, about recommending that?

Mr. FIELDS. The Advisory Council just had a public meeting on June 9 and recommended that if necessary, the Administration should look at using the Pelly Amendment to bring sanctions against countries that are not honoring the CITES import-export restrictions that were set in place now more than 20 years ago.

Mr. DEFAZIO. OK. But when do we reach the "if necessary" point?

Mr. HAYES. Well, there is an important meeting that CITES is having this summer in which eight countries that have been singled out as having particularly poor exporters and domestic markets for ivory that appear to be clearly in violation of CITES, including China, Vietnam and others. There will be discussion about the action plans they have put on the table.

And so we think it is appropriate for the—

Mr. DEFAZIO. And Pelly can go beyond just a like sanction. It can go to other imports or imports from those countries.

Mr. HAYES. Yes.

Mr. DEFAZIO. So if we just threaten a whole bunch of junk coming from China or all of the televisions that we are getting from them since we do not make them anymore, it might get their attention.

Mr. HAYES. Yes. I think it actually has to have a connection with wildlife, but in the past the connection has been——

Mr. DEFAZIO. Yes.

Mr. HAYES. But I defer to you on that, Congressman.

Mr. DEFAZIO. We have to investigate that, and I am trying to clearly authorize that.

Representative Fields?

Mr. FIELDS. Mr. DeFazio, I think you are absolutely correct. You were out of the room when I spoke relative to your statements earlier and also what Chairman Fleming said. The two of you have an unbelievable bully pulpit, and I just know from our experience in 1988 and 1989 when we asked the Chinese Ambassador to come and meet with us and then we had follow-up subsequent meetings, I do not think anything is going to happen with one meeting, and I do not think necessarily two meetings. I think you have to look at everything that is available to you in terms of options that you can exercise, whether they are sanctions, whether they are pieces of legislation.

Most countries cannot stand in that glare, in that spotlight, and I have every confidence in you and Chairman Fleming being able to make a real difference.

Mr. DEFAZIO. Right. And Vietnam, I know we have already done a letter on the rhino, but they are also on this list, are they not? Yes, and they are desperately trying to be part of the trans-Pacific partnership. I think we could also direct a congressional letter to our Special Trade Representative Froman to say, "Well, if they keep this up, you should not even consider them," you know, some things that might get their attention.

There was something else mentioned while I was out that related back to the teapot and some other things, and I do not know whether or not we do not have Fish and Wildlife up here, but your familiarity Mr. Hayes and with the group you are serving on, this discussion of a de minimis exemption, it just seems to me that would narrow the universe so much, and I am trying to think of an analogy.

And it is really hard to come up with an analogy, but I was thinking about one thing. It is like we have a problem in this country with legal drugs being used illegally. We are not banning the legal drugs. We have tried to put a higher level of restrictions on how they are dispensed and how they are prescribed, but they are still pretty readily available. We have not gone to the point of, you know, where we seem to be going.

Would some sort of de minimis exemption, I mean, if you could take one of those things I picked up as heavy as it is, which is part of a tusk and you are talking about small pieces of ivory, it would be like 10,000 rings or whatever, you know?

Mr. HAYES. From my perspective, Congressman, I think that we have to have a common sense approach to what I believe, as Congressman Fields said, are ancillary issues, and I hope that the Fish and Wildlife Service will come forward in their rulemaking where they are going to better define what kind of expectations there are for burden of proof, for example, et cetera; that there are common sense approaches that allow for the continued trading of pre-ban imported materials and the continued trading of antiques, the bona fide antiques.

The law allows both types of trade to continue.

Mr. DEFAZIO. Right. OK. Well, thank you.

Thank you, Mr. Chairman.

Dr. FLEMING. We are going to have a vote soon, but I think we can still squeeze both in. So Mr. McAllister, you are recognized.

Mr. MCALLISTER. Thank you, Chairman.

Well, first let me just say I think we are all in agreement that the number one goal is to protect the sustainability of the African elephant, and, Congressman Fields, I just have a few questions directly for you because I definitely like the way that you take on the subject, cut through all of the B.S., and let us fix the problem and then the rest will be collateral and it will fix itself.

So the first question I have for you is: in your opinion will banning the domestic sale and trade of legally owned pre-ban ivory help end the poaching and illicit trade?

Mr. FIELDS. No.

Mr. MCALLISTER. What steps do you think the United States should take to help those foreign nations to combat poaching?

Mr. FIELDS. Well, the African Elephant Protection Act has a mechanism to fund, you know, programs and projects, which I mentioned a moment ago, 26 years, 467 projects, \$31 million, but again, to me money is not going to solve it, and when you think about the poacher, how do we get to those poachers?

Unless we have boots on the ground, we are not going to get to the poacher. We really have to go to the market side and, again, the bully pulpit that you guys have, the options that are available to you, and I think it is not a one-shot affair. I think you have to be consistent and dogged, but you put the spotlight on the country with the bad actors or the countries that are the bad actors.

And also I might say I would not be surprised if there is not state-sponsored in some form or effect, and I have no personal knowledge, of the poaching.

Mr. MCALLISTER. I guess would that be the same as the steps we should take to help end the international illicit trade of the ivory, too?

Mr. FIELDS. Excuse me?

Mr. MCALLISTER. I said I guess you would answer the same way for the steps that we should take to end the international illicit trade in ivory as well as the poaching, the same?

Mr. FIELDS. I think, again, it sounds too simple, but you have to follow the money and go to where the money is, and again, whether it is a sanction or a piece of legislation or global condemnation, something has to be done to get the attention of the people who are the bad actors, the national bad actors.

Mr. MCALLISTER. And as a retired Member of Congress concerned about poaching in Africa, is this an effective use of the taxpayer dollars in your opinion?

Mr. FIELDS. Are you talking about the Fish and Wildlife proposal? I personally do not think it is going to work, and I think in countries like Zimbabwe and Tanzania, it, first of all, is a slap in the face of these countries that they were not consulted.

It takes the money out of the local community, which the elephant is no longer protected by the community, but becomes a meat source, and it has a commodity, the ivory. You know, it takes away the money that supports jobs in these very poor areas. It makes no sense whatsoever, and again, in terms of the antique ivory, to me that is collateral. It does nothing to preserve the current African elephant population.

Mr. MCALLISTER. Well, I appreciate all of you all coming. I would just like to say to you, Congressman Fields, and to you, Mr. O'Grady, thank you for your service in government and for the military and any others that may have served. I appreciate you taking your time today to come and visit with us.

Dr. FLEMING. The gentleman yields back.

Ms. Shea-Porter.

Ms. SHEA-PORTER. Thank you.

After listening to this back-and-forth for more than an hour, I am still wondering exactly why each person is holding the position without bending at all. For example, I do not really understand, Congressman Fields. You said just go after the poacher; follow the money; go after the poacher. But haven't we been doing that?

I mean, you started that and thank you for the legislation.

Mr. FIELDS. And also Tony Beilenson.

Ms. SHEA-PORTER. Yes, but since then we have come to face much larger challenges, and when we talk about all those who are making money and using it for terrorist operations or whatever they are doing with that, and a real stronger criminal element, why do you think we can (a) follow the poacher—apparently we cannot or we have not been able to—and what exactly are you talking about in order to stop this?

I am pretty certain that these governments do not want this either, this illegal poaching. So you said, well, highlight and try to embarrass the country. But haven't we already tried that?

Mr. FIELDS. Well, it worked. When we did this, the price of ivory went from \$100 a pound down to virtually nothing, and I am going to have to give you my best guess because I am not really current and privy to security information, but I think perhaps we have not had our eye on the ball. We have not been as focused.

I think you alluded, as did Mr. Lowenthal and others, that the poaching element is much more organized today, much better funded, which to me—and, again, I have on personal knowledge—but it makes me wonder if some of the poaching is not state-sponsored.

Ms. SHEA-PORTER. Exactly.

Mr. FIELDS. And I think when you look at where the ivory is going, obviously there is someone there making money. Somehow that is intrinsic in that particular society, and I know from our experience that until we actually got very specific with a country, China, and said to them, "You have a problem," and we were told



there was no problem and we came back and introduced legislation, put the spotlight on, had the hearing, that is when——

Ms. SHEA-PORTER. But clearly this is not working anymore, and the basic problem is that we do not have enough elephants, that the elephants are dying, and so I listen to the hunters. I listen to the concerns about the economy and thinking there does not seem to be much room for compromise there, and then I also would like to talk to Mr. Hayes about this because you mentioned the number of elephants that died just in the past couple of years, and it is horrific.

What percent are killed illegally, number one?

And what would you suggest? And tell me more about the panel and what the recommendations are because while what worked very well then does not seem to be working now.

What would be different? Why do you believe that this would work?

Mr. HAYES. First, Congresswoman, in answering your first question, the estimates of 35,000 and then 20,000 over the last 2 years are elephants that are killed for their ivory illegally by poachers.

There is a very effective representation of the relative number of elephants that are dying of natural causes versus poaching, and in much of Central Africa and East Africa you see that the killings are far, far more than would be expected through natural death.

In terms of what is the situation today, I agree 100 percent with Congressman Fields. The ban that took place in 1989, because of Congressman Fields' legislation, was incredibly effective and the markets crashed and the value went way down and poaching as a result went way, way down. And it stayed down relatively speaking over the next 20 years or so.

It has really spiked in the last 5 years, and for a couple of reasons. No one knows for sure why, but there are a couple of obvious factors.

One is CITES made a mistake and put on the market some national stocks of ivory and created an ambiguity about all of a sudden now the ban that was really quite complete based on the African Conservation Act became, well, now there is good ivory. So it was cover, as Mr. Dreher explained, for the illegal sale of ivory.

The other thing is the rise of a middle class in China and Asia and the consumerism associated with that and those combinations, and I think the U.S. and the world took their eye off the ball as well.

Many of the recommendations are really along the lines of demand reduction, just as Congressman Fields has said, and follow the money and try to get the kingpins that are involved. The good thing about the syndicates is that it is not necessarily the small poacher that is in the village that is causing the problem. It is the big time operators.

We know how to deal with that globally and efforts are underway under the transnational organized crime initiative.

Ms. SHEA-PORTER. Can you deal with that and still protect the right that we have heard from others talking about their musical instruments, talking about their antique business?

Mr. HAYES. Certainly.

Ms. SHEA-PORTER. And talking about a certain amount of hunting. Is there a balance there?

Mr. HAYES. Certainly. I mean, I agree 100 percent with Congressman Fields that the antique ivory issue, the musician issue, we should be able to work through these issues, and the hunting issue, there is no question that in some countries the hunting is tremendously helpful.

Right now in Tanzania, I do not know the situation in Zimbabwe, but we know that in Tanzania the elephant populations are declining precipitously.

Ms. SHEA-PORTER. OK. Thank you.

Dr. FLEMING. OK. The gentlelady's time is up.

And we now have a vote, and we are out of time. Before closing, I would again like to thank all of our witnesses for the participation in this important hearing.

I also would like to have unanimous consent to include in the hearing record the INTERPOL report by Dr. Samuel K. Wasser; a statement by Sotheby's, testimony of Christie's; a statement of Art and Antiques Trade Group; a statement by the Association of Art Museum Directors; a statement of Art and Antiques Trade Group; a statement by Ms. Linda Karst Stone of Kerrville, Texas; an article by a Mr. Doug Bandow of the Cato Institute; and an article that appeared in yesterday's Wall Street Journal entitled "Grandma's Cameo Becomes Yard Sale Contraband."

And without objection, so ordered.

There is no question that each of us believes that the illegal killing of elephants must stop. I remain hopeful that the Fish and Wildlife Service will listen to reason and not criminalize millions of Americans who legally own ivory.

In the final analysis, simply closing the U.S. market and prohibiting the import-export, interstate and intra-state sale of elephant ivory will not save elephants in the ivory producing states. It might make us feel better, but traffickers do not care whether their illegally obtained wildlife is sold in Beijing, Hong Kong, Saigon or Washington, DC.

I also remain unconvinced that treating Grandma's ivory broach, Uncle Bob's Steinway piano, or cousin John's vintage Martin guitar with ivory pegs, all of which were legally acquired many years ago, as contraband will do anything to save or conserve wild elephants today.

I want to thank Members and staff for their contributions to this hearing.

If there is no further business, without objection, the subcommittee stands adjourned.

[Whereupon, the subcommittee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

PREPARED STATEMENT OF RAYMOND M. HAIR, JR., INTERNATIONAL PRESIDENT,  
AMERICAN FEDERATION OF MUSICIANS OF THE UNITED STATES AND CANADA

On behalf of the 80,000 members of the American Federation of Musicians of the United States and Canada (AFM) and the International Conference of Symphony and Opera Musicians (ICSOM), a Players' Conference within the AFM representing over 4,000 musicians in over 51 major symphony and opera orchestras throughout the United States, I want to thank Subcommittee Chairman John Fleming and

Minority Committee Member Alan Lowenthal for holding the June 24, 2014 oversight hearing on the plan of the U.S. Fish and Wildlife Service (USFWS) to implement a ban on the commercial trade in elephant ivory. The ban has a laudable goal: to shut down the illegal trade in ivory that fuels African elephant poaching. The AFM supports conservation efforts and the fight against illegal poaching and illicit trade in African elephant ivory.

However, the USFWS Director's Order 210—both as originally issued on February 25, 2014 (the Order), and as modified on May 14, 2014 (the Amended Order)—has had and will continue to have the most severe of negative and unintended consequences on musicians, culture and the music industry, without advancing the goals of the elephant ivory ban, reducing illegal ivory trade or diminishing elephant poaching in Africa because of its restrictions on musical instruments.

Although elephant ivory was once used in small amounts in the manufacture of some musical instruments, this has not been the case for decades. However, thousands of musicians now own musical instruments that lawfully contain small amounts of elephant ivory. These musicians did not buy their instruments for the de minimis amounts of ivory they contain, but for their acoustic and handling properties unrelated to ivory per se. The use and sale of these musical instruments does not fuel the illegal ivory trade.

But the Amended Order nevertheless imposes severe restrictions on musicians' ability to perform internationally with these instruments, and will erode the instruments' economic value, causing great harm to our musical culture as well as great economic harm to our Nation's musical artists. Although the Amended Order sought to correct problems created by the Order's restrictions on the ability of musicians to travel with their instruments, it fails to provide a clear, practical and reliable system for permitting such travel.

The AFM submits this written testimony for the record in order to show, first, that musical instruments containing small amounts of ivory simply should be exempted from the ivory ban, and second, that at a minimum, the application of the Amended Order and any new rules regarding musical instruments should be held in abeyance until clear, reliable and non-burdensome means of compliance are worked through with stakeholders.

#### THE AFM AND ITS UNIVERSE OF STAKEHOLDERS

The AFM is the largest labor organization in the world representing professional musicians, and possibly the oldest, having been founded in 1896. The AFM represents musicians in such diverse workplaces as motion picture and sound recording studios, live theaters, symphony, opera and ballet orchestras, hotels, lounges, tours and every other sort of venue large and small. The AFM has also represented the legislative and policy interests of working musicians since at least 1907, when operetta composer Victor Herbert was asked and appeared before Congress in support of copyright reforms on behalf of composers and the AFM. The AFM is firmly committed to raising industry standards and placing the professional musician in the foreground of the cultural landscape and relevant policy debates.

AFM members comprise the broadest imaginable universe of performing musicians. We perform as jazz, classical, folk, country, rhythm and blues, world music, Latin, Asian, salsa, samba, polka, hip-hop and rock artists in over 200 affiliated locals throughout the United States and Canada. We are found in the professional ranks of major and regional symphonic, operatic and ballet orchestras, musical theater pits, major motion picture sound studios, night clubs, city music festivals, and traditional city-community concert and drum-and-bugle style bands. We teach in schools, universities and private studios, thus training new generations of artists.

Contrary to popular misconceptions, most musicians are neither rich nor celebrities, nor is ours a life of effortless play. We have natural talent, but only hard work and practice will hone our art. Full-time jobs in music are rare. Most professional musicians struggle to earn a decent living, and a successful musician is likely to be a person of extraordinary musical gifts earning, at best, a modest, middle-class livelihood.

For professional musicians, our musical instrument is a crucial tool of the trade, and more—it is our voice. A musician chooses his or her instrument with the utmost care for sound, playability and personal suitability, and then practices and performs on it until the instrument is an extension of the musician's artistic self. Musicians' instruments may range in value from \$1,000 to \$10,000,000; for most musicians it is a major investment, and its economic value is as crucial to the musician's future economic well-being as its acoustic quality is crucial to his or her artistic expression. I cannot emphasize too strongly the importance of instruments to musicians and the music industry: professional musicians depend on their instruments to earn a living

and give voice to their artist expression, student musicians to learn their art, and amateur musicians to express themselves in their homes and communities.

AFM members recognize the dignity of work and the value artists and supporters of the arts place on that work. With the execution of every musical note, we strive for perfection in both practice and performance. We know that perfection demanded by our commitment to the art can only be achieved through our instruments.

MUSICAL INSTRUMENTS CONTAINING DE MINIMIS AMOUNTS OF IVORY SHOULD BE  
EXEMPT FROM THE BAN

At the June 24, 2014 oversight hearing, Ms. Arian Sheets, Curator of Stringed Instruments at the National Music Museum, provided the subcommittee with clear testimony that while 20th century instrument makers used small amounts of elephant ivory (often less than 1 gram) in certain musical instruments, elephant ivory has not been used in the manufacture of musical instruments for decades. Thus, the contemporary manufacture of musical instruments neither provides a market for illegally traded ivory nor fuels the African elephant poaching that feeds that illegal market.

It is also clear that the continued existence, sale and use of thousands of what Ms. Sheets calls “vintage” instruments that contain small amounts of elephant ivory from earlier decades, when such use was lawful, also does not feed the illegal ivory market nor encourage elephant poaching. As I explained above, musicians select instruments for the quality of the instrument’s tone and the highly individualized sense of the instrument’s suitability for artistic talent and desires. We do not select instruments for the minimal amounts of elephant ivory they may contain; ivory is irrelevant to the musical value of the instrument. Bluntly stated, musical instruments are not bought and sold for ivory, and in the wake of all the furor that erupted over the Order and the Amended Order, the AFM is unaware of any evidence that the import, export, interstate sale or intrastate sale of musical instruments has any effect on illegal ivory trafficking or elephant poaching.<sup>1</sup>

The AFM understands that the difficulty facing the USFWS is that of determining which vintage instruments contain lawfully obtained, pre-Convention elephant ivory, and which, perhaps, do not. But the approach taken in the Order and the Amended Order, which put an impossible burden on ordinary citizen-musicians to ascertain and document the provenance of the small amounts of ivory in their instruments—which were never purchased for their ivory in the first place, and about which sufficient documentation may be impossible to obtain—puts an extraordinary hardship on musicians with no countervailing benefit for wildlife conservation. Musicians are terrified to take their instruments on tour to foreign engagements, for fear of confiscation upon return to the United States, no matter what steps they have taken, because the permitting process is full of obstacles and may be impossible to fulfill with certainty. Middle-class musicians can ill afford for their instruments—which represent a major investment for them—to lose value because they cannot be sold in inter- or intra-state commerce. And these harms will have an adverse effect on the arts generally, from symphony, opera and ballet orchestra institutions to ethnic “world music” groups (and groups performing in every genre imaginable) to the viability of foreign cultural exchanges.

In light of the fact that the practice of inserting small amounts of elephant ivory in musical instruments ended decades ago, the lack of evidence that travel, use and sale of musical instruments with small amounts of ivory has any ill effect on wildlife conservation, and the harms with which the Amended Order will burden musicians in particular and the arts generally, the AFM believes that musical instruments should be exempted from the Amended Order.

THE APPLICATION OF THE AMENDED ORDER AND ANY NEW RULES ON MUSICAL INSTRUMENTS CONTAINING SMALL AMOUNTS OF ELEPHANT IVORY SHOULD BE HELD IN ABEYANCE PENDING ESTABLISHMENT OF CLEAR, RELIABLE AND NON-BURDENSOME MEANS OF COMPLIANCE

If musical instruments containing small amounts of elephant ivory are not to be completely exempted from the application of the Amended Order and other conservation regulations, their application should, at a minimum, be deferred until the

<sup>1</sup> Indeed, the USFWS has acknowledged that precluding the movement of musical instruments containing CITES pre-Convention or antique ivory “would not benefit elephant conservation” and such movements “do not contribute to poaching and illegal trade.” *USFWS Moves to Ban Commercial Elephant Ivory Trade Questions and Answers*, <http://www.fws.gov/international/travel-and-trade/ivory-ban-questions-and-answers.html>, see answer to “Why not impose a complete ban on all import, export and domestic sale?”

USFWS (and any other relevant government agencies) have consulted with stakeholders in the music and arts communities and reached agreements upon clear, reliable and non-burdensome methods of compliance.

In his testimony during the June 24, 2014 oversight hearing, David J. Hayes, Vice-Chair of the Advisory Council on Wildlife Trafficking, noted that the Advisory Council had “urge[d] the Interior Department’s Fish & Wildlife Service to work with the regulated community to provide non-burdensome permit approvals for non-commercial import and export of products that contain ivory (e.g., orchestra instruments that contain ivory; traveling museum exhibitions, etc.), and for clear and reasonable burden of proof standards that qualify ivory products as “antiques” that are exempt from the Endangered Species Act.”

But to date, the application of the Amended Order has been unclear, unreliable, and burdensome. Musicians of all types—those who tour as musicians employed by orchestra institutions, those who tour in their own small groups or as solo performers in all types of musical genres, and those who simply own vintage instruments and fear their loss or devaluation—have suffered from uncertainty that hurts the arts and does nothing for wildlife conservation.

#### *The Order*

Immediately upon issuance of the February 25, 2014 Order, the American music industry was thrown into turmoil. It is no exaggeration to say that AFM musicians in the United States and Canada experienced panic at the thought that under the immediate enforcement provisions of the Order, they faced the possible confiscation of their instruments containing small amounts of ivory upon returning from foreign tours, and had no clear idea and no government guidance regarding how to comply with the Order to avoid such extreme results. The AFM worked hard to untangle the new rules regarding travel in and out of the country, but there upon issuance of the Order there was no one central government source of reliable answers to the myriad of confounding questions raised by the Order and its immediate enforcement.

The AFM and other organizations were able to assist two major U.S. symphony orchestras whose players, all members of AFM Locals in Boston and New York, were already scheduled to travel overseas within a few months. But it was impossible meet the needs of the many non-orchestral musical groups who were booked to perform overseas and had no guarantee that they would be able to return safely with their musical instruments—because it was impossible to determine up-to-date, conclusive and accurate directions about how to navigate customs and immigration with instruments containing small amounts of ivory. There were some indefensible confiscations of instruments that may have been related to African ivory, and the uncertainties surrounding the Order allowed rumor and misinformation to spread through the music industry like wildfire.

The AFM became convinced that complications would continue unless and until musical instruments either were exempted from the Order, or were subjected to clear, reliable and non-burdensome rules. As I wrote to President Obama, “the language in the Order creates insurmountable obstacles that the average citizen musician cannot navigate due to the lack of a One-Stop government site that provides necessary guidance.” (See attached letter to President Obama dated April 4, 2014.) I wrote a similar letter to the Congressional Black Caucus, Congressional Hispanic Caucus and Congressional Asian Pacific American Caucus, to advise them the Order likely would adversely impact diverse musical cultural constituencies, including groups that travel with special indigenous non-traditional musical instruments that may contain ivory. (See attached letter to the Congressional caucuses dated April 4, 2014.) In that letter, I requested and recommended the exemption of musical instruments from the Order until such time as USFWS issued an orderly plan that would allow artists to smoothly traverse the system assuring guaranteed, safe importation of their valued musical instruments through customs and immigration upon return.

Last but certainly not least, the AFM and partner organizations met with the USFWS to urge that the needs of the music community could and should be met without any harm to wildlife conservation.

#### *The Amended Order*

Due to considerable pressure brought about by the AFM and its national music partners, the USFWS issued the Amended Order on May 15, 2014. Though we welcomed the Amended Order’s expansion of the date related to sales and trade of musical instruments, the Amended Order did not go far enough to mitigate the burdens and harms caused by including musical instruments containing small amounts of

ivory within the purview of the elephant ivory ban. The following are only some of the ongoing problems under the Amended Order and potential new regulations.

*The Burden of Proof and the Lack of Clarity Surrounding Applications for CITES Certificates*

The Amended Order allows the import/export (i.e., foreign tours and returns to the United States) of musical instruments containing worked elephant ivory that was legally acquired and removed from the wild prior to February 26, 1976 (the date that the African elephant was listed under the Convention on International Trade in Endangered Species (CITES)), and not sold since February 25, 2014. This would cover an enormous number of musical instruments, except for the following critical practical problem: the burden of proving that the minimal amount of ivory in a musical instrument was taken from the wild pre-CITES is often impossible to meet. Numerous instruments, including many of the finest examples that are prized by musicians for their playing qualities, were crafted with small amounts of ivory long before CITES existed. Violin bows, for example, are often extremely old. None of these instruments, and very few others, would have been provided with documentation regarding their ivory content, most especially because the instruments were never valued for the minimal amounts of ivory they might contain but only for their ability to produce sounds.<sup>2</sup>

Simply put, it is unreasonable to impose a burden of proof upon citizen-musicians that simply cannot be met, particularly given the lack of connection between musical instruments and the illegal ivory trade.

If the USFWS persists in believing that musicians should be required to make some showing regarding the likely source of any ivory in a musical instrument (though a showing far short of proving provenance where proof is impossible), the showing that should be required to obtain a CITES certificate (or other “musical passport”) must be informed by practical reality, determined in conjunction with musicians and experts on musical instruments, and accompanied by clear, consistent and reliable guidance and directions (including to enforcement officials)—before it is enforced. At present, even with the issuance of a new musical instrument permit number 3–200–88, appropriate government “required” documentation needed to prove the source of any ivory in the instrument is unclear.

*Resolution of Economic Issues Relating to Seizures of Legally Purchased Musical Instruments*

The AFM understands that fines have recently been levied on confiscated musical instruments and their component parts, with no system in place to reimburse affected artists whose instruments may eventually be deemed to be perfectly lawful.

There is currently no system in place to reimburse musicians for the value of lawful instruments that are damaged or destroyed in inspection or enforcement efforts. Musical instruments are fragile, and instruments suspected of being in violation of regulations may be damaged or destroyed if inspected and mishandled by non-experts. As an economic matter, regulations must provide for compensation in such circumstances. As a practical matter, regulatory language must be developed in cooperation with musicians and instrument experts to ensure that it appropriately protects valuable instruments during any physical inspection.

*Preventing Devaluation of Musical Instruments*

As I described above, musical instruments are major investments for working musicians and music students. Regulations that prevent the sale of musical instruments containing minimal amounts of African elephant ivory will do nothing to prevent the illegal ivory trade, but will radically reduce the economic value of musical instruments, threatening the livelihoods, capital investment, and future retirement of musicians, as well as preventing a new generation of musicians from benefiting from some of the finest musical instruments in existence. This is a most serious problem, not only for individual musicians, but for the music and arts community as a whole, and must be addressed.

*Insufficient Number of Ports of Exit and Re-Entry to the United States*

At time of the issuance of the Amended Order until now, the USFWS made no effort to accomplish targeted, effective public education regarding the need, under the Amended Order, to exit and enter the United States through designated ports. Moreover, citing cost prohibitions during our meetings, the USFWS would not con-

<sup>2</sup>Indeed, it is not only difficult for musicians to determine or document the ivory (or lack thereof) in their instruments. The AFM understands that there is at least one documented case of an instrument being confiscated by U.S. officials because it was suspected to contain elephant ivory, when in fact it contained none.

sider expanding the number of ports available to musicians re-entering the United States with affected musical instruments. These problems must be rectified. And, as noted above, reliable techniques for distinguishing African elephant ivory from other materials must be developed, and safe procedures for the handling and protection of musical instruments must be developed with instructions clearly filtered down to enforcement officials.

#### *International Inquiries*

I have written at length about American musicians, but AFM and non-AFM Canadian musicians cross daily into the United States, and there is no clarity regarding the documentation they now need to bring their musical instruments into the United States. New regulations now imposed by the U.S. government have added additional layers to the travel procedures Canadian musicians follow, which already include immigration verification, work permits, and the Canadian government requirement for musicians to obtain an ATA Carnet, just to name a few. Similarly, international musicians committed to perform in the United States, often as part of important cultural exchanges, suffer from uncertainty regarding requirements and their ability to obtain appropriate CITES documentation.

#### *Conclusion*

In addition to thanking the subcommittee for its attention to this critical issue, I would also like to thank officials of the USFWS for their continued responsiveness to the concerns of the music community. But as the consideration of these issues continues, the AFM urges Congress, the Administration and the USFWS to take to heart the plight of the working musician and the music industry at large.

In this regard, it is worth noting that musical instrument makers and the music industry generally have been leaders, not followers, in the conservation of wildlife, given the fact that they discontinued the use of ivory in musical instruments decades ago. Many musical instruments lawfully containing small amounts of elephant ivory remain in use, and they have extraordinary artistic and financial value to musicians and the arts. The AFM believes that a full moratorium for musicians and their instruments should be placed on the application of the Amended Order and any other new rules to musical instruments, either permanently, or, at a minimum, until such time all issues are resolved in conjunction with stakeholders and clear final guidelines and documentation are published on the USFWS Web site.

Attachments

#### ATTACHMENT 1

AMERICAN FEDERATION OF MUSICIANS  
OF THE UNITED STATES AND CANADA,  
NEW YORK, NY,  
APRIL 4, 2014.

Hon. BARACK OBAMA, *President of the United States*,  
*The White House*,  
1600 Pennsylvania Avenue NW,  
Washington, DC 20500.

Re: Meeting Request—Professional Musicians and African Ivory

DEAR PRESIDENT OBAMA:

Please permit me to introduce myself. I am the International President of the American Federation of Musicians of the United States and Canada, (AFM) an AFL-CIO labor union founded in 1896 and recognized by the Department of Labor as one of the oldest unions in the United States. For more than 117 years, the union has served as the principal representative for professional musicians both at the bargaining table and in government and federal affairs. On behalf of 80,000 professional musicians, I write to request a meeting with you to discuss reconsideration and possible rescission of restrictive and what we feel is punitive language in Director's Order No. 210 issued by the United States Department of the Interior—United States Fish and Wildlife Service on February 25, 2014.

Mr. President, while the AFM joins you and the rest of the world in the preservation and protection of endangered wildlife species from poachers and unscrupulous dealers in the African ivory trade, Order No. 210 hurts musicians by immediately implementing new and extremely restrictive rules on musicians who tour and travel internationally and who represent the best of American art and culture. The Order's sudden release has created "a chilling effect" on the travel and touring schedules

of musicians who have contracted with international concert vendors and in certain cases, with representatives of foreign governments.

We are joining with prominent AFM artists such as B.B. King and others to raise the point that Section 2 b (4) of the Director's Order singles out musicians and their priceless working tools by placing highly restrictive travel requirements with musical instruments containing in most cases de minimis parts of African elephant ivory. The Order would in effect subject any artist returning from international engagements to detention, confiscation and possible destruction of priceless musical instruments that may be placed in the hands of officials who have no knowledge about how to handle them.

Most importantly, the AFM believes the language in the Order creates insurmountable obstacles that the average citizen musician cannot navigate due to the lack of a One-Stop government site that provides necessary guidance. With no published guidance from USFWS and no ability for a musical constituency here in the United States that easily surpasses one million affected artists, organizations like mine are inundated with telephone calls and emails from members asking for solutions that the government has not provided. There is no central website designed to answer citizens' questions, no hotline for those traveling in the immediate future, no expedited permit processing, and no directive to U.S. Customs and Immigration Officers who are charged with immediate execution of enforcement about how to manage encounters with musicians returning from travel who are not aware of this new Order.

In closing, we have reached out to Members of Congress and asked for their help with this matter. We have indeed received interest and some support and look forward to the opportunity to meet with you, Mr. King, and if possible members of various Members of Congress to devise a more complete resolution to problems created by Director's Order No. 210.

Thanking you in advance for your consideration, I am,

Sincerely and respectfully yours,

RAYMOND M. HAIR, JR.,  
*International President.*

#### ATTACHMENT 2

AMERICAN FEDERATION OF MUSICIANS  
OF THE UNITED STATES AND CANADA,  
NEW YORK, NY,  
APRIL 4, 2014.

Hon. MARCIA FUDGE, *Chair,*  
*Congressional Black Caucus,*  
2344 Rayburn HOB,  
Washington, DC 20515.

Hon. JUDY CHU, *Chair,*  
*Congressional Asian Pacific American Caucus,*  
1520 Longworth HOB,  
Washington, DC 20515.

Hon. RUBEN HINOJOSA, *Chair,*  
*Congressional Hispanic Caucus,*  
2262 Rayburn HOB,  
Washington, DC 20515.

Re: American Federation of Musicians—African Elephant Ivory—Meeting with President Obama

DEAR CONGRESSIONAL CAUCUS CHAIRS:

I am writing to ask your assistance with a critical issue that has affected the entire music industry, particularly musicians you represent. Respectfully, the matter requires immediate attention.

On February 25, 2014 the U.S. Fish and Wildlife Service under the auspices of the Department of the Interior released Director's Order No. 210 outlining new, stepped-up enforcement requirements for import, export and travel with items containing African elephant ivory. Section 2 b (4) specifically carves out and places new travel limitations on musical instruments. The harmful effects of Order No. 210 are



being felt throughout the music industry particularly among musicians with instruments that were legally acquired prior to February 26, 1976.

The American Federation of Musicians of the United States and Canada (AFM) is not arguing the merits of the ivory ban, just the effects of the Director's Order. As the representative of 80,000 professional musicians in the United States and Canada, it is our obligation to point out that what appears to be a specific yet targeted focus on valuable musical instruments containing de minimis amounts of elephant ivory is simply punitive. The Order has caused concerns for musicians throughout our industry who travel abroad and who fear they will have no recourse should enforcement actions by U.S. Border agents take place upon reentry into the United States. Stakeholders should have time and the ability to comment on the merits of the Order and any new rules within our respective industries and professional communities.

Hundreds of thousands of professional musicians, college students, and fine musical instrument collectors who for decades have owned rare and antique musical instruments have been swept up in the sudden negative effects of this Order and what may eventually become a rule. Musicians who travel daily with valuable work tools, student musicians who attend major universities, colleges and conservatories, and high school students in every community in the United States and its territories who own instruments legally acquired before 1976, have been singled out. Many who do not follow the Federal regulatory process will have absolutely no way of knowing how to travel and securely reenter the United States without having priceless instruments detained, confiscated and possibly destroyed at customs entry points around the United States.

The American Federation of Musicians along with scores of other national arts groups are pushing for a carve-out of musical instruments legally owned by American musicians and instrument collectors.

We ask that the Congressional Black Caucus, the Congressional Asian Pacific American Caucus, and the Congressional Hispanic Caucus weigh in on this issue with a letter to President Obama with an eye toward rescinding the musical instrument segment of the Order.

I will also forward information about our issue regarding promulgation of an overdue rule for musical instruments as carryon baggage and our work with Secretary Foxx's staff.

Thanking you in advance for the Caucus' help.

Sincerely yours,

RAYMOND M. HAIR, JR.,  
*International President.*

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PREPARED STATEMENT OF THE AMERICAN FEDERATION OF VIOLIN AND BOW MAKERS, INC.

The American Federation of Violin and Bow Makers represents violin and bow makers from throughout North America. The art of violin and bow making represents a body of knowledge that has been handed down for centuries. The Federation's mission is to enhance public understanding and appreciation of historical violins and bows, the making of new instruments, as well as conservation and restoration of historical and modern instruments. The Federation works closely with many other musical industry organizations, including the International Pernambuco Conservation Initiative, the Violin Society of America, the International Society of Violin and Bow Makers, the League of American Orchestras, the American Federation of Musicians, the National Association of Music Merchants and the Recording Academy, to increase awareness of resource conservation issues crucial to the future of music.

The Federation appreciates the opportunity to present comments to the Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs as it provides oversight regarding the African elephant ivory ban.

The ban poses a dilemma to the stringed instrument world. The Federation supports without reservation the President's goal of combating wildlife trafficking and conserving African elephants. The Federation remains deeply concerned, however, that if the scope of the ban is not properly tailored, it will produce the unintended consequence of harming our Nation's artistic and cultural heritage.

Unlike some objects containing ivory, musical instruments are indispensable tools of the trade for makers, dealers and musicians. A musician's instrument is highly personal, integral to the sound and performance quality the musician is trying to

achieve, and often represents a very substantial personal financial investment. Hand crafted and unique, many instruments are among our culture's most highly prized artistic, cultural, historical and educational objects.

Approximately 25–30 years ago bow makers, who number approximately 50 in the United States, learned about the plight of elephants and stopped using elephant ivory. Since that time, bows have been made using mammoth ivory or other substitutes. When bows were in the past made using elephant ivory, the quantities were extremely small—approximately 1 gram was used to shape a quarter gram tip. With approximately 350 bows made each year domestically, the tusks from one elephant, therefore, could have supplied several thousand tips over many years.

Bow tips are functional: they grip horsehair, provide balance and protect the bow's delicate pernambuco tip. Musicians, however, do not purchase bows for their ivory. They purchase them for their overall artistic and acoustic qualities and may very well not be aware that a tip is made of ivory. The existence of elephant ivory in older bow tips, therefore, has never been a driver of trade and does not today contribute to a bow's value or, at a higher level, help drive up the cost of elephant ivory globally.

Today, a very large universe of lawfully made, sold, and purchased bows containing elephant ivory are being played throughout the country and the world by professional, amateur, and student musicians. These bows are also being studied, exhibited, bought, and sold by instrument makers, dealers, and musicians. The Director's Order and news of future rule-making has created a broad perception among owners of these bows that they should immediately replace their lawful elephant ivory tips or risk seizure at international borders, possible forfeiture, and professional disaster.

Recently, for example, a bow maker replaced the tip of a 30-year-old bow of high value. He reported that, although he was able to do the job without damaging the bow's wooden stick, the bow would never play the same. The great pity is that the sacrifice of this and many other bows' artistic and historic qualities will do nothing to save African elephants.

The Federation urges the government to adopt a surgical, evidence-based approach to targeting and restricting activity, so that limited enforcement resources are expended where they will yield conservation benefit. The Federation is not aware of any evidence demonstrating a relationship between elephant poaching, wildlife trafficking and musical instrument making. Absent such evidence, the Federation believes the Government should refrain from imposing any new restrictions on the trade in musical instruments containing *de minimis* quantities of legally obtained ivory.

The Federation was encouraged that the revised Director's Order 210 issued last month incorporated common-sense improvements, such as removing the limit on non-commercial importation of instruments containing ivory and sold after 1976. Imposing the same limit on instruments sold after February 2014, however, seems arbitrary and destined in the future to impose an unfair burden on musicians, bow-makers, and dealers without a clear, countervailing conservation benefit. Similarly, the Federation agrees with the Director's decision to eliminate the requirement that antiques need to have entered through authorized ports. The Federation believes that the antique definition should be revised further to simply require that an instrument be 100 years old. Moreover, we note that, when determining a musical instrument's artistic and cultural value, the distinction between antiques and non-antiques is illusory—bows younger than 100 years old may have superior qualities.

With more proposed rules coming out later this year, there is currently a great state of confusion and anxiety within the music community. A noticeable shift toward greater enforcement of CITES and Endangered Species Act permitting requirements, the roll out of a new musical instrument passport followed by the African elephant ivory ban has produced tremendous uncertainty about the steps needed to comply with U.S. and foreign laws and applicable burdens of proof. The Federation urges U.S. Fish & Wildlife Service to immediately provide the music industry with clear, one-stop, easy-to-access online guidance that will aid compliance. The Federation also believes that scheduling the release of forthcoming proposed rules concurrently rather than in sequence would help to minimize confusion.

The music industry wants to understand how to comply with all applicable laws and it wants to support a targeted, common sense approach to protecting African elephants. If musicians, instrument makers, and dealers cannot enter the United States with the instruments they depend on without fear of seizure; and if musicians, makers and dealers cannot buy and sell the antique and non-antique instruments needed in order for music to develop and the highest levels of quality to be achieved, we risk imposing serious and unnecessary hardship on a substantial eco-

conomic sector and undermining a tradition of cultural activity that has earned the United States a global reputation as a home of artistic excellence.

Thank you.

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PREPARED STATEMENT OF WILLIAM G. PEARLSTEIN AND MICHAEL J. MCCULLOUGH,  
ART AND ANTIQUES TRADE GROUP

We represent the Art and Antiques Trade Group (the “Trade Group”). The Trade Group consists of the Art and Antique Dealers League of America,<sup>1</sup> the National Antique and Art Dealers Association of America,<sup>2</sup> the Antiques Dealers’ Association of America,<sup>3</sup> the Appraisers Association of America,<sup>4</sup> and the British Antique Dealers’ Association.<sup>5</sup> These associations represent the interests of the small businesses that deal in fine and decorative art objects of cultural significance. Collectively, they represent approximately 500 dealers and 700 appraisers in the United States and United Kingdom. Our auctioneers include Bonhams, Doyle, Heritage, iGavel, Keno Auctions, Skinner and Stair). They are among the leading auction houses in the fine and decorative arts. We believe that the Trade Group collectively represents the majority of the trade in the United States and United Kingdom in antique fine and decorative art objects and includes the leading experts in the field.

The plight of the elephant is of great concern to the Trade Group, and we deplore the lack of focus this issue has received in the past. We applaud the leadership shown by the Administration and this subcommittee on the issue of regulating the trade in elephant ivory.

The Trade Group’s members have routinely worked with the U.S. Fish and Wildlife Service (the “Service”) with regard to import/export permitting and enforcement matters. They understand the difficult task given to the Service to enforce the Nation’s wildlife laws. In furtherance of the National Strategy for Combatting Wildlife Trafficking, the Art and Antique Trade Group has offered to work with the Service and the New York Department of Environmental Conservation to create a public-private partnership and institute best trade practices. Our goal is to facilitate a transparent, lawful market in ivory objects that are reliably certified as bona fide antiques, and block the illegal traffic in uncertified, poached materials that lack permits.

We respectfully ask the subcommittee to consider the following concerns:

*The Antique Exception under the ESA*

We expressed concern that Director’s Order No. 210, as originally issued in February 2014, had linked the “antiques exception” to the “designated port requirement” (under Section 1339(h) of the Endangered Species Act of 1973, as amended (“ESA”)), thus clouding the trade in pre-1982 antique imports and U.S. made antiques.

We asked the Service to consider decoupling the antique exception from the designated port requirement, and made three essential arguments: (i) seasoned experts in the fine and decorative arts trade can reliably distinguish genuine antiques from fakes, forgeries and fresh ivory; (ii) the trade in certified antiques does not drive demand for low-grade objects that incorporate poached ivory; and (iii) any “de minimis” requirement for antique ivory would be unworkable, unenforceable, and make the “antiques exception” unavailable for most of the antique objects in the trade.

After considering the concerns raised by our representatives and other stakeholders, and in light of the legislative history of the antique exception, the Service issued Amendment 1 to the Director’s Order in May 2014 (the “Amended Order”). As you know, the Amended Order provides that the Service, in its enforcement discretion, will not enforce the designated port requirement against bona fide antiques imported prior to 1982 and articles that were created in the United States and

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<sup>1</sup>The Art and Antique Dealers League of America (the “League”) has 93 member firms in United States. More about the League may be found at <http://www.artantiquedealersleague.com>.

<sup>2</sup>The National Antique and Art Dealers Association of America (“NAADAA”) has 39 members across the United States. More about the NAADAA may be found at <http://www.naadaa.org>.

<sup>3</sup>The Antiques Dealers’ Association of America (“ADA”) has 102 member firms in the United States. More about the ADA may be found at <http://www.adadealers.com>.

<sup>4</sup>The Appraisers Association of America (“AAA”), the premier national association of personal property appraisers of fine and decorative arts, has over 700 member firms in the United States. More about the AAA may be found at <http://www.appraisersassociation.org>.

<sup>5</sup>British Antique Dealers’ Association (“BADA”), the trade association for the leading antique dealers in Britain, has 348 members, of which seven are located in the United States. More about BADA may be found at <http://www.bada.org>.

never imported. The Service takes the view that the limited exception for the trade in reliably certified antiques does not contribute to the demand for freshly poached ivory. In his testimony to the Senate Subcommittees on African Affairs and East Asian and Pacific Affairs on May 21, 2014, Director Ashe added that a “de minimis” requirement would be unworkable and unenforceable.

#### *Imports of Certified Antiques*

In light of the rationale underlying the Amended Order, we believe that there is a strong case:

- to create an import CITES requirement for the importation of bona fide antiques containing worked elephant ivory and those previously exported under permit being returned; and
- to create an expert advisory panel to assist the Service in reviewing import and export CITES permit applications.

#### *The ESA Preempts Contrary State Regulation*

- Section 6(f) of the ESA provides in relevant part that:  
“Any State law or regulation which applies with respect to the importation or exportation of, or interstate or foreign commerce in, endangered species or threatened species is void to the extent that it may effectively . . . (2) prohibit what is authorized pursuant to an exemption or permit provided for in this Act or in any regulation which implements this Act.”
- New York State has recently passed a bill that purports, among other things, to limit the trade and transfer of objects containing ivory, mammoth or rhinoceros to 100-year-old antiques that include not more than a “de minimis” amount (in this case 20 percent) by volume of such materials. Other States, such as New Jersey, have enacted or may soon enact similar “de minimis” legislation or outright bans on the trade in antique ivory.
- The “de minimis” limit and other features of the New York bill impermissibly conflict with, and effectively negate, the antiques exception under the ESA. They place New York law (and other contrary State laws) squarely at odds with express Federal law and Congressional policy.
- We respectfully request that Congress require the Service to emphasize in its final rules regarding the Amended Order the preemptive effect of the antiques exception on contrary State law.

#### *An Ivory Ban Would Have a Significant Adverse Effect on the U.S. Art Market*

- In the United States, the total number of quality fine art objects individually worth over \$10,000 is relatively small, probably totaling in the hundreds of thousands. The number of decorative art objects is much higher, probably totaling in the range of 400,000,000 or more. We estimate that approximately 5 percent of these enter into commerce each year, for a total of around 20,000,000 objects, consolidated into 1.5–2.5m transactions.
- Most items sold at auction, in tag sales or house sales enter into the marketplace one time each generation. Assuming the items offered total around 1,500,000–2,500,000 each year and this number is replicated each year over 30 years, then the total objects entered into commerce in this period would total between 30,000,000–50,000,000 objects.
- Because these materials were incorporated into and used to create rare and precious objects, the values of objects that contain these materials are high. Many collectors stand to be severely hurt by a ban or effective ban of antique objects made of or containing these materials.
- A conservative estimate is that 20,000,000–30,000,000 U.S. citizens will be affected and suffer significant loss. More will be affected by burdens of paperwork and regulatory compliance. The loss of value, lost sales, and compliance costs will certainly cost American citizens a total in the tens of billions of dollars each year.
- The less tangible cost will be cultural, stigmatizing huge numbers of works of art, many that are unique cultural treasures, because these incorporate a material that is today viewed differently than in the past. This loss is incalculable.
- See Appendix A for an overview of the trade in fine and decorative art objects containing antique ivory.

Our goal is to facilitate a transparent, lawful market in ivory objects that are reliably certified as bona fide antiques, and block the illegal traffic in uncertified, poached materials that lack permits. We hope to continue our dialog with the Service and this subcommittee to facilitate this goal.

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## PREPARED STATEMENT OF ASSOCIATION OF ART MUSEUM DIRECTORS

### I. INTRODUCTION

The Association of Art Museum Directors (the “AAMD”) is a professional organization consisting of approximately 240 directors of major art museums in North America. The purpose of the AAMD is to support its members in increasing the contribution of art museums to society.

The AAMD supports the efforts of the U.S. Fish and Wildlife Service (“FWS”) and the international community to address the threats to wildlife, including elephants, in a responsible and measured approach. Museums have a significant role to play, particularly as educators and communicators. At the same time, museums have a responsibility to protect, conserve, and display works of art that represent the creativity of the human spirit. That creativity expresses itself in many mediums and in the past, quite legitimately, through works that include elements of species that are now endangered or threatened.

The implementation of a complete ban on the commercial trade in elephant ivory would deal a severe blow to museums in carrying out their primary responsibility of protecting, conserving, displaying and sharing works of art from all ages in all mediums. Art museums in the United States<sup>1</sup> (individually, a “U.S. Art Museum”) have a long history of complying with CITES and national laws designed to protect endangered and threatened species, such as the Endangered Species Act, which for decades have allowed U.S. Art Museums responsibly to acquire, exhibit and make direct loans of legally acquired artwork containing elements of elephant ivory, and other endangered or threatened species.

The FWS Director’s Order 210 (“Director’s Order”), not only through its specific prohibitions, but also through the resulting confusion within the art world, has had a significant negative impact on the ability of U.S. Art Museums to carry out their mission. Specifically, two vital components of museum activities have been impacted; the ability of U.S. Art Museums to acquire new works and the ability of U.S. Art Museums to take part in exchanges of international exhibitions and direct loans with foreign lenders.

### II. AREAS OF CONCERN

*A. Acquisitions:* A major concern for U.S. Art Museums is their ability to continue to acquire works of art that contain elements of raw or worked African elephant ivory whether by purchase, gift or bequest both domestically and abroad. Additions to an art museum’s permanent collection are done through a rigorous process known as accessioning, whereby the museum not only acquires a work of art, but commits to its long-term care and conservation. Only rarely are works ever removed from the permanent collection. As a result, acquisition by a U.S. Art Museum effectively removes these items from the trade and allows them to be studied, researched and displayed for the benefit of the public, scholars and students. Unfortunately, actions by the FWS have limited the ability of U.S. Art Museums to accept donations and acquire works of art containing African elephant ivory.

1. *Donations:* U.S. Art Museums acquire approximately 80 percent of their collection through generous donations that allow the American public to see works that many museums could never afford to purchase. Currently, there is confusion about whether an individual in lawful possession of a work of art containing raw or worked African elephant ivory may donate that work to a U.S. Art Museum and take a tax deduction or if this donation would constitute a post-February 25, 2014 transfer for financial gain or profit. Under the Director’s Order, if a work has been transferred for financial gain or profit after February 25, 2014, there would be a bar to import of the item to the United States. As a result, such a work would be ineligible for loans outside the United States because the work could not be returned to the U.S. Art Museum.

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<sup>1</sup> The AAMD is not in a position to speak on behalf of all museums in the United States, but there does not appear to be a compelling reason not to make this exception applicable to any museum that meets the definition in 45 CFR § 1180.2.

When a donor donates a work of art, often worth hundreds of thousands of dollars, and takes a tax deduction, even at the highest marginal bracket, the donor is still, on a net basis, giving away more than half of the fair market value of the donated work. The FWS should clarify that a donor may take a tax deduction for a gift to a U.S. Art Museum and that doing so does not create a post-February 25, 2014 gain event, provided that the donor does not receive any substantial benefit in exchange (as defined by the Internal Revenue Service).<sup>2</sup>

Similarly, if an object that was legally purchased after February 25, 2014 were to be donated to a U.S. Art Museum, whether or not the donor takes a tax deduction, the museum that accepts such a gift could not loan the object to a foreign exhibition or make a direct loan to a foreign museum because the work was involved in a commercial transaction after February 25, 2014 and, therefore, could not be re-imported to the United States to be returned to the U.S. Art Museum. The FWS should add an exception for purchases legally made after February 25, 2014 and donated to a U.S. Art Museum in addition to clarifying that the donation is not a financial gain or profit transaction occurring after February 25, 2014, as discussed above.

2. *Acquisitions Abroad*:<sup>3</sup> The new criteria limiting the ability of U.S. Art Museums to import items containing African elephant ivory lawfully acquired abroad are too narrow and severely limit the ability of museums to fulfill their mission. The Director's Order has made illegal the importation for commercial purposes of works of art containing ivory, most importantly for U.S. Art Museums including those containing ivory that is at least 100 years and often centuries old. As a result, while foreign markets continue to function with great works of art containing ivory sold on a regular basis, those works can no longer be acquired by U.S. Art Museums. Rather, they become part of foreign private or public collections and are lost to the American public. This is not an issue of recently acquired ivory. Art museums buy works of art—not ivory. They buy those works based on rigorous scholarship and research. When a museum determines to acquire, for example, a medieval reliquary carved from ivory or a Greek plaque of a warrior from 1400 B.C., the museum's identification of the object as medieval or as ancient Greek means, by definition, that the ivory it contains is centuries old and, therefore, presents no threat to the current plight of elephants. U.S. Art Museums should be permitted to continue to acquire these works—antiques as defined by statute—and to import them into the United States for the benefit of the public in the United States.

B. *Exhibition and Direct Loans*: The ability to move works of art containing ivory in and out of the United States in connection with exhibitions abroad and exhibitions in the United States and direct loans to and from foreign lenders and borrowers is essential to the mission of museums. The Director's Order, not only through its specific prohibitions, but also through the resulting confusion within the art world, has had a significant negative impact on the ability of U.S. Art Museums to create, organize, effectuate or participate in international exhibitions and to make or receive direct loans of objects containing African elephant ivory. Foreign lenders are reluctant to loan such works of art to U.S. Art Museums because of concern that the works will not be returned. U.S. Art Museums are concerned about lending to foreign venues for fear that the works will not be able to be re-imported into the United States.<sup>4</sup> There is no indication that any of this movement in the past has been illegal or inappropriate and, at least in the experience of AAMD, these loans have routinely been made in full compliance with CITES and other applicable laws. The procedures for these loans should not change from the rules and regulations applicable to such loans prior to February 25, 2014.

In the context of the non-commercial import and export of a work of art containing African elephant ivory, the work should be permitted to be imported and exported and re-imported and re-exported, provided that a U.S. Art Museum certifies to the FWS that the work:

<sup>2</sup>As set out in Revenue Procedure 90-12, 1990-1 C.B. 471, and Revenue Procedure 92-49, 1992-1 C.B. 987.

<sup>3</sup>This paper does not address the proposed ban on commercial sales in the United States as others will undoubtedly address that issue, but the AAMD does support a continued, carefully regulated United States market for verifiable antiques containing ivory.

<sup>4</sup>While the terms re-exported and re-imported are often used, and are used in this paper, to describe a work of art that is going out of and coming back in to the United States or coming into and going back out of the United States, they are, under certain circumstances, a misnomer, as they imply previous movement across U.S. borders, whereas in fact, works made in the United States may never have been previously removed.

1. is more than 100 years old, based on certified documentation of ownership, qualified appraisal, or other accepted methods of proving an object's provenance;
2. is reasonably believed to include African elephant ivory;
3. has not been repaired or modified with any part of any such species on or after December 28, 1973; and
4. was either legally imported prior to September 22, 1982 or thereafter entered through a port designated for import of ESA antiques or was created in the United States and never imported.

### III. CONCLUSION

While AAMD supports the efforts of the FWS to curtail the illegal wildlife trade and protect endangered and threatened species, including the elephant, a complete ban on commercial trade in African elephant ivory would have dramatic and far reaching implications for the U.S. Art Museum community and severely impair museums' ability to fulfill their mission. Restricting the trade in illegally acquired African elephant ivory should not deny to the public of the present the work of artists of the past.

The Director's Order addresses not only the FWS' plan to implement a ban on commercial trade in elephant ivory, but many additional limits on commercial and noncommercial activities involving elephant ivory, rhinoceros horn, and parts and products of other species listed under the Endangered Species Act. The AAMD has concerns about the numerous implications of the Director's Order and other actions proposed by the FWS which significantly impact the ability of museums to fulfill their mission, however, as this hearing is strictly on the plan to implement a ban on commercial trade in elephant ivory, the AAMD has not addressed its other concerns in this statement. The AAMD would be glad to provide a more comprehensive statement regarding its concerns with the FWS' actions generally to the extent it would be helpful to the Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs.

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### PREPARED STATEMENT OF CHRISTIE'S, INC.

Christie's appreciates the opportunity to submit comments to the Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs.

Christie's unequivocally condemns the slaughter of elephants for illegal elephant ivory. We understand that the slaughter of elephants today is at such a pace as to endanger seriously the entire species. We believe we have a role to play stopping the poaching of elephant ivory and the illegal trade in contemporary ivory works that results and we take our responsibilities in this respect very seriously.

Our primary task is to ensure that Christie's does not sell any art containing illegal contemporary ivory. To this end, we do not ever sell "unworked" tusks, regardless of their age. We do, however, sell antique objects of cultural and artistic importance, some of which include elephant ivory as a material. These antique works of art include items as diverse as 18th century furniture, objects of virtue, ancient sculpture, Japanese netsuke, Old Master paintings and frames, musical instruments as well as 18th century silverware. These historic works of art were crafted long ago when the elephant population was not under threat and are completely unrelated to current illegal elephant ivory trade, which is driven largely by the appetite for contemporary religious, tourist and trophy pieces, none of which are sold by Christie's.

In selling these historic cultural and artistic objects which incorporate ivory, Christie's is careful to abide by all global, Federal and State laws designed to protect elephants and prevent the sale of illegally obtained contemporary ivory. In particular, we have obtained licenses from both the relevant Federal and NYS regulatory agencies to offer for sale antique items containing ivory. We also have implemented a comprehensive training program taught by the Legal Department to teach our specialists and administrators the legal requirements needed to import, export and sell antique objects containing ivory. This program is held several times annually to ensure that all relevant employees are fully knowledgeable about the legal requirements surrounding the sale of antique objects containing ivory.

Even more important than our licensure or training programs is our rigorous vetting program through which any item believed possibly to contain ivory is subjected. Our goal is to ensure that no objects that pass through our hands are the product of poaching. In order to determine the age and type of ivory in items offered for sale,

Christie's vets each item as follows: (a) Every item that may possibly contain ivory is examined by an expert to determine whether the material in question constitutes ivory, synthetic ivory, other animal bone, or some other material and to help ascertain its age; (b) our specialists request and review provenance documentation to help pinpoint the age and country of origin of the object in question; (c) our specialists also examine the aesthetics of the object to ascertain an object's country of origin, date, and type of ivory, based on their knowledge of art history and trade routes over time; (d) our specialists also study each object to make sure that the normal wear and tear, coloring and other details commonly associate with an antique object of that type are present; and (e) finally, our specialists look for any indications of restoration and then work to ensure that any ivory used to restore the object also comply with international, Federal and State laws and regulation. In short, Christie's maintains stringent due diligence for all objects that may contain ivory in order to ensure that they fully comply with all legal requirements.

By setting such a high standard of compliance, Christie's not only intends to provide a good example within the art market regarding the sale of antique ivory objects but also serves as an educational resource for its clients. As we undergo the vetting process, we use that opportunity not only to explain what we are doing to our clients but the reasons why we have put this vetting process in place. By helping our clients to understand the complexity of and risks associated with ivory objects, we enable them to make smart choices not only with us but when purchasing from others. Educated clients in turn undercut the market support for illegal ivory.

Despite Christie's multiple efforts to support the limited market for antique objects containing ivory against the contemporary trade in illegal ivory, some still seek a total ban on the sale of commercial ivory. We think that stance ignores how well Christie's and other reputable market players meet the strict legal standards associated with the sale of antique objects containing ivory. Additional enforcement efforts rather than a more extensive ban would curtail the illicit trade.

Moreover, there are significant collateral costs to a total ban on the sale of ivory. Many pre-19th century objects of artistic and cultural importance contain ivory, and a large portion of those contain only a de minimis amount. For instance, many 18th century wood tables contain limited amounts of in-laid ivory, certain Old Master paintings are painted on ivory canvases, many silver tea sets have ivory handles, antique musical instruments have ivory parts and the list goes on. These items can make up sizable portions of the collections of many museums. Even if museums were exempted from compliance with a complete ban, the ban would render this part of their collections valueless because there would be no market in which they could sell or trade these items. Likewise, it would render valueless the pieces in the hands of private collectors.

Some of those collectors will have spent millions of dollars to purchase their antique objects containing ivory. Others may have inherited them or purchased them for much less money. Some may want to sell their antique ivory objects in order to purchase other items while others may want to sell these items in order to fund their child's college education or renovate their home. In all cases, these private owners counted on their objects to retain value. However, a complete ban will eliminate any value to these items, no matter how distant in time from current poaching or minute in amount the ivory is. We believe a strict, safe, limited market can be continued for these antique objects containing ivory that will permit them to retain value for their good faith purchasers.

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PREPARED STATEMENT OF TERESA M. TELECKY, PH.D., DIRECTOR, WILDLIFE  
DEPARTMENT, HUMANE SOCIETY INTERNATIONAL

The Humane Society of the United States (The HSUS) and its global affiliate, Humane Society International (HSI), together constitute one of the largest animal protection organizations in the world. We thank Chairman Fleming and members of the committee for the opportunity to submit written testimony.

Just a few weeks ago, one of Kenya's largest and most iconic elephants, Satao, was killed by poachers with a poisoned arrow. The tragic death of Satao sparked mourning, outrage and condemnation across the globe. Images of his mutilated face and body—his majestic, long tusks gone—send a powerful signal that we are racing against time to save elephants from the ongoing slaughter for their ivory. It also epitomizes the ruthless poaching fueled by worldwide demand, including here in the United States, for ivory trinkets, statuettes, decorative items and trophies.



The best way to stop the slaughter of elephants for their ivory and the march of the elephants toward extinction is to close ivory markets around the world, including by ending the import, export and domestic sale of elephant ivory in the United States.

Therefore, The HSUS and HSI strongly support the Administration's efforts to protect elephants by reducing the significant ivory market in the United States, and we appreciate efforts by the U.S. Congress to highlight the elephant poaching crisis, including this hearing today and the February 26 hearing by Chairman of the House Committee on Foreign Affairs, Congressman Ed Royce, on "International Wildlife Trafficking Threats to Conservation and National Security." The Chairman, committee members and witnesses highlighted a wide range of devastating impacts of wildlife trafficking, especially trafficking of ivory from recently poached elephants that go beyond the extinction of elephants and the cruelty inflicted on the poached animals. The impacts also include threats to the national security of the United States.

The Obama administration's Executive Order on Combatting Wildlife Trafficking issued last year, and the release of the National Strategy for Combatting Wildlife Trafficking earlier this year, demonstrated the U.S.'s firm resolve to address the international poaching crisis that is affecting not only elephants but rhinos, tigers and a host of other species. We strongly commend the U.S. Fish and Wildlife Service (USFWS) for following up on the Order and Strategy by issuing a series of Administrative Actions ratcheting down on elephant ivory import, export and interstate commerce, to the extent allowed by law. In particular, HSUS and HSI strongly support the prohibition on importation of all African elephant ivory for commercial purposes, including antique ivory, and the moratorium on the importation of sport-hunted trophies of elephants from Tanzania and Zimbabwe. We are looking forward to reviewing proposed rules currently being developed by the USFWS and we urge the Service to promulgate the strongest regulations possible under law, that do not contain loopholes or exemptions that would create enforcement challenges.

The actions of the Administration are steps in the right direction, as the U.S. has a crucial role to play in stemming the illegal ivory trade. It might surprise many that the United States is the second largest market for ivory after China. According to a 2008 report,<sup>1</sup> "Ivory Markets in the USA," a total of 24,004 ivory articles were found for sale in 654 outlets in 16 towns and cities visited in the United States. New York had by far the most ivory for sale, followed by California and Hawaii. New York City had at least 11,376 items for sale. Hawaii had 23 outlets selling at least 1,867 items.

The authors found that:

- Nearly one-third of the items appeared to have been crafted after 1989 when the international ban on the ivory trade under the Convention on International Trade in Endangered Species (CITES) took effect, making their importation illegal.
- Inspection of pieces (mainly of Chinese origin) in shops suggested that many figures, netsukes, and jewelry items were recently made. Some African items also looked recently made.
- In Hawaii, close to 90 percent of the items for sale were found to be of unknown or illegal origins.
- Over 40,000 worked ivory items, including personal effects, were legally imported to the United States from 1995–2007. Previous studies found that ivory workshops in Asia and Africa produce fake antiques. Thus, even the imported worked ivory into the United States that seems old could be recently made.
- The U.S. legally imported some 3,530 tusks and about 2,400 raw ivory pieces between 1990 and 2005 and some of this material was illegally sold into the commercial market.
- Federal and State authorities rarely inspect shops or Internet sites for illegal raw or worked ivory.
- Some contraband gets past Customs and there are no effective internal ivory transport and retail market controls.

<sup>1</sup>Martin, E., and D. Stiles. 2008. Ivory Markets in the USA. Care for the Wild International and Save the Elephants. West Sussex, UK and London, UK. <http://www.savetheelephants.org/files/pdf/publications/2008%20Martin%20&%20Stiles%20Ivory%20Markets%20in%20the%20USA.pdf>.

Research conducted by The HSUS and HSI in June and July 2013 on Hawaii's and New York's online ivory marketplaces found them vibrant yet unregulated. For instance, the Web site that sold the largest number of ivory products in Hawaii, over 800 items in total, attempts to demonstrate the legality of the ivory by posting on the Web site ivory import permits from the 1980s that do not contain information needed to match items on the list to items that are offered for sale. Several other vendors state that their ivory was legally imported but do not provide documentation matching the ivory they offer for sale. None of the 1,153 ivory articles offered for sale online in Hawaii can be judged with confidence to be legal.

An earlier investigation<sup>2</sup> in 2002 by The HSUS of ivory markets in the United States found:

- Ivory sellers who offered to provide fraudulent documents to investigators indicating that elephant ivory was mammoth ivory, that new ivory was old ivory, or that recently imported ivory was imported a long time ago.
- These markets are supplied, at least in part, by illegal imports from Hong Kong of ivory objects carved in China.
- Those in the ivory business offered tips about how best to smuggle ivory into the United States, including placing small ivory items in their luggage in a certain manner to avoid detection by x-ray machines and importing through U.S. ports, such as Alaska, where there are few USFWS inspectors.
- There is no real disincentive to smuggle ivory into the United States. Although large-scale smugglers can be fined and imprisoned, small-scale smugglers are usually only required to forfeit the ivory objects.

While the United States has laws and regulations pertaining to ivory trade, they are confusing and riddled with loopholes exploited by those involved in the international and domestic ivory trade. This also leads to consumer confusion about what is legal and what is not. The result is a flourishing, poorly regulated domestic ivory market in the United States.

In the United States, the Convention on International Trade in Endangered Species (CITES) is implemented through the Endangered Species Act (ESA). CITES bans the international commercial trade in both Asian and African elephant ivory. However, there are exceptions to this rule. Generally, any ivory possessed prior to July 1, 1975 is "pre-Convention" and can be traded internationally for commercial purposes. Sport-hunted elephant trophies can be exported and imported but not for commercial purposes. It is important to note that CITES does not address domestic trade in ivory.

In addition to CITES rules governing international trade, the ESA also has its own rules governing international trade as well as domestic interstate trade. Under the ESA, the Asian elephant is listed as "endangered" and the African elephant as "threatened". This means that, in general, it is illegal to import, export or sell Asian elephant ivory between States. However, African elephant ivory legally imported to the United States prior to January 20, 1990 (when the 1989 CITES ivory trade ban became effective) may be sold on the domestic market. Furthermore, import, export and interstate sale of ivory that is "antique" (more than 100 years old) are allowed.

The other law of relevance is the African Elephant Conservation Act, which banned the importation of raw and worked African elephant ivory on June 9, 1989. The ban does not include sport-hunted elephant trophies.

Finally, some jurisdictions within the United States have laws that can affect the legality of the sale of ivory. California banned the sale of ivory, although this law appears not to be enforced. Recently, both New York and New Jersey banned the sale of ivory although in New York there are some very limited exceptions.

To summarize, it is legal to import, export and sell on the U.S. domestic market certain types of elephant ivory depending on the age of the ivory, the date the ivory was acquired or imported, and whether the ivory is from an Asian or African elephant. These variables are difficult for the public to comprehend and challenging for authorities to implement and enforce.

The difficulty of enforcing these laws cannot be overlooked. Ivory is a term that can refer to the tusks of Asian or African elephants, or the tusks of extinct mammoths (dug up from the frozen tundra of Siberia or Alaska), or the teeth of hippos, walrus, sperm whale, narwhal, warthog or boar. Only experts, using special equipment, can sometimes tell the difference between Asian and African elephant tusks, or between elephant and mammoth tusks. Even then, it is not always pos-

<sup>2</sup>Humane Society of the United States. 2002. An Investigation of Ivory Markets in the United States. The Humane Society of the United States. Washington, DC, USA. [http://www.humanesociety.org/assets/pdfs/Ivory\\_Trade\\_Report.pdf](http://www.humanesociety.org/assets/pdfs/Ivory_Trade_Report.pdf).

sible to tell the difference between ivories of these closely related species. The fact that ivory carvings can be made from other mammals, including extinct ones that are not regulated by international or domestic laws, offers an easy means for smugglers to circumvent legal requirements by simply claiming elephant ivory carvings to be those of another species.

An example of the enforcement problems surrounding ivory is illustrated when the USFWS seized ivory carvings imported from Hong Kong. The subject was importing 56 ivory carvings (mainly “netsukes” which are small ivory carvings of animals or people) in his luggage, and told the wildlife inspector that they were all mammoth ivory and did not require a permit. He had receipts from a Hong Kong shop where he had purchased the items, stating that they were “mammoth” tusk carvings. The carvings were sent to the USFWS’s National Fish and Wildlife Forensics Laboratory to be tested. Out of the 55 carvings tested, 10 were made from ivory from African or Asian elephants (these items were seized), while another 6 carvings were made from extinct elephant ivory from mammoths or mastodons. However, the majority of the carvings could not be determined with accuracy to be either elephant ivory or mammoth ivory. In fact, 29 carvings were made from “elephant ivory of an indeterminate source.” Furthermore, 10 of the carvings were found to be “carvings made from dentine (ivory) of an indeterminate source,” presumably meaning that it could not be determined even from which type of the animal the ivory originated. If one of the most advanced wildlife forensics laboratories in the world has difficulty distinguishing between ivories, and thus between potentially legal or illegal items, it is almost impossible to expect the average ivory buyer to be able to do so.

Numerous high-profile and large-scale seizures during the last few years show that our market is a fertile ground for smuggled ivory. According to Interpol’s rule of thumb only 10 percent of contraband is seized. This suggests that for every major seizure of illegal ivory in the United States, many more illegal items were smuggled into the United States. Once these illegal ivory items cross our borders, there is no effective control mechanism to stop their circulation in the markets.

Below are a few examples of recent significant ivory seizures:

- In 2012, an investigation by the Manhattan District Attorney, the USFWS and New York State Department of Environmental Conservation agents led to the confiscation in Manhattan’s diamond district of roughly a ton of ivory trinkets which filled 72 banker boxes, representing approximately tusks of 100 slaughtered elephants. The seized goods were worth 2 million dollars.<sup>3</sup>
- An ongoing investigation since 2012 by the USFWS, dubbed “Operation Crash”,<sup>4</sup> in collaboration with the Department of Justice has made 17 arrests and 9 convictions concerning wildlife crimes. One conviction involves a transnational criminal network that smuggled rhino horns and elephant ivory collectively worth more than 4.5 million dollars. Ringleader of the network, Zhifei Li, was sentenced to 70 months in prison on May 27, 2014.
- On June 4, 2014, a Philadelphia art dealer, Victor Gordon, who pleaded guilty for smuggling African elephant ivory, was sentenced to 30 months in prison.<sup>5</sup> One ton of elephant ivory was seized from Gordon’s Philadelphia store in April 2009. According to a National Geographic article, Gordon instructed his West African co-conspirator, “how to alter receipts and to dye the material to make it appear old.”<sup>6</sup>
- The USFWS’ “Operation Scratchoff”, which targets smuggling of elephant ivory from Africa to the United States, discovered various ways traffickers use to avoid detection. For instance, “shipments were accompanied by fraudulent shipping and customs documents identifying their contents as African wooden handicrafts or wooden statues. The ivory itself was painted to look like wood; covered with clay; or hidden inside wooden handicrafts, such as traditional African musical instruments.”<sup>7</sup>

<sup>3</sup> <http://www.manhattanda.com/press-release/da-vance-announces-guilty-pleas-dealers-selling-illegal-elephant-ivory>.

<sup>4</sup> <http://www.fws.gov/home/feature/2014/3-31-14-Operation-Crash-Overview.pdf>.

<sup>5</sup> <http://www.justice.gov/usao/nye/pr/June14/2014June4.php>.

<sup>6</sup> <http://webcache.googleusercontent.com/search?q=cache:AuA8-Dd25sJ:news.nationalgeographic.com/news/2014/06/140604-victor-gordon-ivory-trafficking-philadelphia-operation-scratchoff-usfws-forest-elephants-gabon/+&cd=1&hl=en&ct=clnk&gl=us>.

<sup>7</sup> “Eye on Ivory, *Investigations & Inspections*”, USFWS, <http://www.fws.gov/le/pdf/Elephant-Ivory-Investigations.pdf>.

The lack of effective controls along the trade routes, combined with the difficulty of distinguishing legally acquired ivory from ivory of recently poached elephants, are exploited by unscrupulous dealers to launder illicit ivory into our marketplace. The USFWS has remarked that “criminal investigations and anti-smuggling efforts have clearly shown that legal ivory trade can serve as a cover for illegal trade.”<sup>8</sup> In a January hearing of the New York State Assembly Committee on Environmental Conservation, assistant director of the Office of Law Enforcement at USFWS, William Woody testified that law enforcement agents “struggle to identify the age of the ivory they find for sale, which determines its legality.”<sup>9</sup>

The only logical conclusion, therefore, is that there must be a ban on ivory sales in the United States if we are to eliminate our role in the poaching and possible near-term extinction of elephants. While we strongly support the Administration’s efforts to ratchet down on the ivory trade, existing laws do not go far enough. We urge Congress to urgently establish a ban, without exceptions, on import, export, and domestic sale of elephant ivory.

As the Nation’s largest animal protection organization, The HSUS’ concern regarding the ivory trade is first and foremost the cruelty of poaching inflicted on the elephants. Because one-third of the tusk is attached to the skull of the animal, poachers brutally hack off the face of the elephant to obtain the tusk. Poachers kill entire elephant families, including its youngest members as long as they have tusks. Elephant babies, who do not have tusks that have emerged, are left as orphans unable to fend for themselves and often die if not rescued by humans in time.

Poachers are getting increasingly ruthless. In Zimbabwe in July last year, poachers poisoned water holes with cyanide and killed more than 300 elephants. Other animals, such as lions, vultures, and so on, also died from drinking from the same water sources or from feeding on the poisoned elephant carcasses. In March 2013, 89 elephants, including 33 pregnant females and 15 calves, were slaughtered in Chad.<sup>10</sup> A year before in February 2012, poachers killed nearly 450 elephants in Cameroon for their ivory.<sup>11</sup> The Central African region bears the brunt of the poaching crisis. It is estimated that the population of forest elephants in Central Africa declined by 62 percent between 2002 and 2011.<sup>12</sup> The African elephant population has declined by an estimated 50 percent over the last 40 years with approximately 470,000 animals left in 38 range countries. The Asian elephant is endangered; its population has also been reduced by half compared to the beginning of the 20th century with less than 50,000 left in 13 range countries. Data indicates that in 2012 at least 35,000 African elephants were killed to supply the global ivory trade, close to 100 every day. If the poaching rate persists, African elephants could be extinct in a few decades.

There is also a human toll behind elephant poaching. During the last decade, over a thousand park rangers across the world have been killed by poachers while on duty. The loss of park rangers has a ripple effect across local communities because they are mothers, fathers, aunts and uncles; they are bread winners; and they are community members. These wildlife rangers are underpaid, outnumbered and outgunned by poachers. As the Secretary General of CITES pointed out, “the massive scale of poaching reflects a new trend that we are detecting across many range states, where well-armed poachers with sophisticated weapons decimate elephant populations, often with impunity.”<sup>13</sup> Lives of wildlife rangers are increasingly put in danger literally every time, if not every day, when they fulfill their job duties of protecting elephants from poachers.

Ivory is dubbed “white gold” because of the lucrative profits ivory sales generate. A pound of raw ivory costs \$1,300 today.<sup>14</sup> Some say that carved ivory can sell for \$60,000 for 10 kilograms.<sup>15</sup> The handsome financial rewards of the ivory trade have attracted Africa-based armed militia and terrorist groups. Ivory has become the new “blood diamond” in Africa that provides an economic bloodline to these criminal and

<sup>8</sup> <http://www.fws.gov/international/pdf/factsheet-ivory-crush-ga.pdf>.

<sup>9</sup> [http://www.crainsnewyork.com/article/20140116/PROFESSIONAL\\_SERVICES/140119890/citys-illegal-ivory-trade-threatens-elephants](http://www.crainsnewyork.com/article/20140116/PROFESSIONAL_SERVICES/140119890/citys-illegal-ivory-trade-threatens-elephants).

<sup>10</sup> “Poachers Behind March Slaughter of 89 Elephants Captured in Chad”, ICCF. [http://www.iccfoundation.us/index.php?option=com\\_content&view=article&id=494:poacher-behind-march-slaughter-of-89-elephants-captured-in-chad&catid=72:2013&Itemid=373](http://www.iccfoundation.us/index.php?option=com_content&view=article&id=494:poacher-behind-march-slaughter-of-89-elephants-captured-in-chad&catid=72:2013&Itemid=373).

<sup>11</sup> <http://news.discovery.com/animals/elephant-poaching-cameroon-120229.htm>.

<sup>12</sup> “Devastating Decline of Forest Elephants in Central Africa”, PLOS One, March 4, 2013.

<sup>13</sup> [http://www.cites.org/eng/news/pr/2012/20120228\\_elephant\\_cameroon.php](http://www.cites.org/eng/news/pr/2012/20120228_elephant_cameroon.php).

<sup>14</sup> <http://www.nytimes.com/2013/03/02/world/asia/an-illicit-trail-of-african-ivory-to-china.html?adxnnl=1&pagewanted=2&adxnnlx=1382464974-wCE0V1v2INFACwuMh5K4A>.

<sup>15</sup> “Elephant slaughter escalates as illegal ivory market thrives”, by Animal Welfare Institute, <https://awionline.org/awi-quarterly/2013-winter/elephant-slaughter-escalates-illegal-ivory-market-thrives>.

terrorist syndicates. According to an investigation by the Elephant Action League (EAL), Somalia-based Al-Qaeda affiliate, Al Shabaab, trades up to three tons of ivory every month and derives a substantial amount of its funding from the ivory trade. EAL estimated that profits from the ivory trade support about 40 percent of Al-Shabaab's operations.<sup>16</sup> Indicated by the International Criminal court for war crimes and crimes against humanity, Joseph Kony and his Lord's Resistance Army have turned to elephant poaching to sustain their nefarious activities. The Washington-based anti-genocide organization, Enough Project, in a report released in June 2013, "Kony's Ivory," found that "LRA leader Joseph Kony has ordered his fighters to bring him elephant tusks. Eyewitnesses report that the LRA trades tusks for much-needed resources such as food, weapons, and ammunition, and other supplies."<sup>17</sup> Lured by money, Sudan's Darfur genocide perpetrator, Janjaweed, have been engaged in elephant poaching. Riding on horseback, and heavily armed, members of Janjaweed repeatedly crossed borders into protected parks in Cameroon and Chad to butcher elephants for their tusks. Profits generated by the ivory trade are much like the blood or conflict diamond that funded insurgency and prolonged the protracted conflicts in the African continent. It is also easy money and untraceable.

The involvement of African rebel groups and Al-Qaeda terrorist network in elephant poaching and the illegal ivory trade elevated the stakes as well as the urgency. Stemming the ivory trade is no longer just about saving the elephants, but also about stopping the cash-flow from the ivory trade for these groups, and protecting U.S. national security interests in the region.

The United States alone cannot solve the elephant poaching crisis. Many argue that the problem lies with China or other Asian countries but we cannot deny the fact that the United States has a sizable ivory market that contributes to the flourishing of the illegal ivory trade. The world is looking to the United States for leadership, to fight these terrorists and save the elephants. But to have credible leadership, we must first address our own significant market for ivory. Efforts reducing our demand for ivory, such as the impending USFWS regulations to prohibit domestic ivory trade, are a clear and bold demonstration of our commitment to combating the illegal ivory trade. By taking a further step, by Congress enacting a ban on import, export and sale of elephant ivory, we could ensure that illegal ivory, ivory from newly poached elephants that funds terrorism and destabilizes Africa, will have no place in our country.

U.S. actions matter and our leadership on this issue is paramount. Soon after the United States crushed six tons of seized ivory in Denver last year, China, France, Belgium and Hong Kong destroyed their seized ivory stockpiles, thereby sending the message far and wide that buying ivory is equivalent to elephant death and the world's governments are not going to stand for it. International coordination and solidarity from the international community, especially from major ivory consuming countries, is imperative to stop the demand and thus to stop the killings. Our diplomatic efforts in convincing major consuming countries, such as China, to reduce their ivory demand would be most effective and credible if we can tell them unequivocally that the United States has a ban on the sale of ivory, and that we urge them to join us and do the same.

We have talked the talk and now we must walk the walk. The threat of extinction facing elephants waits for no one while poachers and traffickers continue their slaughter and despicable activities unabated. The time for a total ban on the U.S. domestic ivory markets is now.

I thank you for your time and consideration of this matter that is crucial to the survival of the elephants, to the stability of the African continent, and to the national security interests of the United States.

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PREPARED STATEMENT OF JESSE ROSEN, PRESIDENT AND CEO, LEAGUE OF AMERICAN ORCHESTRAS AND BRUCE RIDGE, CHAIR, INTERNATIONAL CONFERENCE OF SYMPHONY AND OPERA MUSICIANS

The League of American Orchestras, founded in 1942, and chartered by Congress in 1962, is the national arts service organization of approximately 800 orchestras across the United States—all 501(c)(3) nonprofit charitable organizations—representing thousands of administrators and musicians working daily to deliver or-

<sup>16</sup><http://www.independent.co.uk/voices/campaigns/elephant-campaign/elephant-campaign-how-africas-white-gold-funds-the-alshabaab-militants-9102862.html>.

<sup>17</sup>"Kony's Ivory", Enough Project, June 3, 2013, <http://www.enoughproject.org/reports/kony-ivory-how-elephant-poaching-congo-helps-support-lords-resistance-army>.

chestral music to audiences worldwide. The International Conference of Symphony and Opera Musicians (ICSOM), founded in 1962, represents over 4,000 musicians from 52 major symphony orchestras throughout the United States, with the mission to promote a better and more rewarding livelihood for the skilled orchestral performer and to enrich the cultural life of our society. Our organizations are also active participants in the wider international cultural exchange community, partnering with The Recording Academy, Chamber Music America, the American Federation of Violin and Bow Makers, the National Association of Music Merchants, and the Performing Arts Alliance.

Every day, thousands of U.S. professional musicians, students, and private individuals use musical instruments in public performances, private events, educational pursuits, and for personal enjoyment. Musicians who make their living performing with these tools of the trade live in cities and towns, large and small, in every corner of the United States, and contribute to the economic strength, civic vitality, and educational vibrancy of the communities in which they live. International artists from beyond our country's borders are frequently invited to perform for U.S. audiences—alongside U.S. musicians—multiplying the diverse array of offerings available to listeners. In ongoing international cultural and diplomatic endeavors, U.S. orchestras, small ensembles, and soloists tour internationally to perform for audiences across the globe. In the course of their careers, working musicians nationwide make a considerable investment in the highest quality musical instruments available to them and count on their instruments to enable them to attain their musical skills, advance their careers, and supply extraordinary musical experiences to audiences.

A great many musicians, particularly string players, perform with legally crafted and legally purchased musical instruments that contain small amounts of elephant ivory. Ivory may be found in an array of string, wind, percussion, and brass instruments. The policies recently adopted and soon to be proposed by the U.S. Fish and Wildlife Service regarding the travel and sales rules for musical instruments will have a profound impact on the cultural vibrancy and economic activity of musicians in the United States, and will significantly alter the environment for international cultural activity.

We appreciate this opportunity to go on record related to the impact of recent proposals to ban commercial activity related to African elephant ivory. In addition to concerns related to anticipated upcoming regulatory action to limit future sales of existing musical instruments, we offer comments here regarding the immediate impact of new policies now in place that limit international travel with these musical instruments.

The music community is fully committed to the goals of wildlife conservation and combatting illegal trade in ivory and other protected species. Following the issuance of the February 25, 2014 U.S. Fish and Wildlife Service Director's Order 210, we have been informing musicians of the threat to African elephant populations, assembling the only existing comprehensive guidance for musicians attempting to navigate the new rules for travel with instruments, and responding to numerous daily inquiries and reports from individuals and groups—in the United States and across the globe—attempting to travel with existing, legally crafted musical instruments that contain small amounts of African elephant ivory and other protected species material. While we are grateful for the expansion of instruments eligible for travel under the revised Director's Order issued on May 15, serious barriers to international cultural activities remain.

A reliable system has not been built to support travel with Convention on International Trade in Endangered Species (CITES) permits. Musicians that conclude a permit is required encounter an array of obstacles when attempting to simply travel to use the tools of their trade.

- Clear, species-specific public guidance regarding the many layers of CITES and domestic requirements in the United States and internationally simply is not available in a format easily accessible to musicians. Musicians and cultural institutions are struggling to assess and document the endangered species content of musical instruments, which were legally crafted decades, and even centuries ago. Because these instruments were purchased, not for their protected species material, but for their unique artistic qualities, and considering a great many of them were crafted before CITES came into existence, very few instruments were accompanied by species-specific documentation at the time of purchase. In most cases, it is impossible for musicians to produce original records confirming the material used in instruments, leaving them to pursue appraisals and expert affidavits, with no assurance as to whether such documentation will be acceptable. Some musicians unable to answer the

threshold question as to whether the content of their musical instruments includes protected species material are obtaining permits out of necessary caution, raising their own burden, and raising the impact on permitting and enforcement authorities. While the U.S. Fish and Wildlife Service has publicly stated that it can use visual inspection to distinguish African elephant ivory from other, non-protected material found in musical instrument parts as small as the tip of a bow, musicians have a high degree of fear that even contemporary instruments made with non-protected material are currently at risk of confiscation.

- The required U.S. permit application procedures are entirely new and not clearly communicated to musicians. Over the past 4 months, the U.S. Fish and Wildlife Service has been very responsive to the small number of initial applications for 3-year musical instrument passports, and has provided exemplary public service, responding to inquiries quickly and comprehensively. However, the application forms for passports were not complete, leaving orchestra applicants, for instance, to retrofit existing forms intended for use by “circuses and traveling animal exhibitions.” A new form for applying for 3-year permits has only just been completed in the United States, and the process for using it is as-yet untested. It is unclear whether U.S. Fish and Wildlife will have the capacity to process the potential volume of permit applications it would receive under a fully implemented permit system.
- The extremely limited designated U.S. port locations and hours of operations available for inspecting and credentialing permits are insufficient to support the volume of travel undertaken by professional musicians, students, and others participating in an array of international cultural activity. At present, only nine U.S. ports have inspectors available to process permits for musical instruments that contain both plant and animal material (e.g., stringed instruments containing Brazilian rosewood and ivory). Lengthy port inspection procedures on departure and arrival, for individuals and groups simply transporting musical instruments for use internationally, are an immense barrier to compliance with the underlying permit procedures. Musicians also require formal assurances that their fragile instruments will not be in harm’s way when undergoing inspection and that instruments will be safe from damage or destruction if erroneously confiscated.
- International CITES authorities are not sufficiently prepared to issue multi-year musical instrument passports, and the process for recognizing U.S.-issued documents is uncertain. European CITES countries, for instance are taking the time required to fully consider the impact on their stakeholders before implementing a musical instrument passport process. U.S.-based musicians attempting to use U.S.-issued permits internationally are encountering confusion and delays that disrupt time-sensitive travel.
- In addition to the inconsistencies related to international CITES permit procedures, the lack of clarity regarding the added U.S. domestic rules for traveling with endangered species material presents insurmountable obstacles for many international artists attempting to travel to perform for audiences in the U.S. and alongside U.S. musicians. Well-meaning foreign musicians attempting to comply with permit requirements have had their instruments detained because they unintentionally missed a step in the process or were unaware of the additional U.S. domestic rules for travel with instruments.

Our organizations will continue to inform musicians of the rules for travel with musical instruments, and we will partner with our colleagues in the instrument-making community to help musicians better identify and document the material contained in their musical instruments. We believe that conservation goals and international cultural activity will be more fully supported when the United States takes the following additional actions:

- Immediately issue clearer guidance tailored for musicians preparing to come into compliance with existing CITES and domestic permitting rules and enforcement procedures.
- Fully coordinate implementation and enforcement procedures among the Transportation Security Administration, Department of Homeland Security, U.S. Department of Agriculture, and U.S. Fish and Wildlife Service to streamline treatment of musical instruments.
- Communicate with international CITES authorities to pursue harmonizing U.S. musical instrument passport procedures with international permitting and enforcement protocols wherever possible.

- Remove the limitation on entering or re-entering the United States with musical instruments purchased after February 25, 2014, which contain African elephant ivory.
- Implement a “personal effects” exemption that would allow legally crafted and legally purchased musical instruments to be transported through non-designated ports without undergoing lengthy inspection procedures. This policy change would restore opportunities for international cultural exchange and enable extremely limited enforcement resources to be redirected to genuine threats to wildlife conservation.

The U.S. Fish and Wildlife Service’s “Ivory Ban Questions and Answers” includes the following statement (emphasis added).

Why is the Service allowing limited imports for non-commercial purposes to continue, but restricting the commercial importation of antiques made from African elephant ivory?

The United States is a market for objects made from African elephant ivory, which drives increasing poaching of wild elephants. The Service has determined that it must take every administrative and regulatory action to cut off import of raw and worked elephant ivory where that importation is for commercial purposes. Allowing imports for law enforcement and scientific purposes is in line with the Service’s mission to help conserve African elephants and stop trafficking in African elephant ivory. The other limited exceptions allow movement into the United States of legally possessed African elephant ivory that predates the listing under the Convention on the International Trade in Endangered Species of Wild Fauna and Flora (CITES) for personal use as part of a household move or inheritance, *musical performances*, and traveling exhibitions. Each of these types of import must meet specific criteria. And unlike the commercial antiques trade, *none of these types of imports has been used by smugglers to “cover” trafficking in newly poached ivory.*

Given that the use of musical instruments does not contribute to trafficking in poached African elephant ivory, we firmly believe that policies that protect the future use of musical instruments should be expanded. We submit the attached document, *Protecting the Use and Ensuring the Preservation of Musical Instruments*, as supporting material, which includes comprehensive facts about the limited, historic use of ivory in musical instruments. Notably, the document demonstrates that there is not a demand for new ivory in the use of crafting new musical instruments.

In partnership with the broader music community, we will be engaged in ongoing opportunities for public comment, and will participate in future Federal rulemaking procedures related to travel with musical instruments—and domestic sales of instruments—to seek opportunities for future generations of musicians to have access to existing, culturally significant instruments of unparalleled quality. We thank the committee for this opportunity to seek urgently needed near-term solutions that meet conservation goals while supporting international cultural activity.

Attachment

### **Protecting the Use and Ensuring the Preservation of Musical Instruments**

The undersigned organizations urge Congress and the Administration to take the following steps to protect international and domestic cultural activity while supporting essential endangered species conservation efforts:

- Restore opportunities for international travel with legally crafted, legally purchased musical instruments that contain endangered species material.
- Maintain the legal sale of existing, legally crafted musical instruments that contain small amounts of African elephant ivory.
- Support African elephant conservation by focusing U.S. enforcement resources on efforts that genuinely combat illegal trade and trafficking in African elephant ivory, rather than banning travel with and sale of legally crafted and legally purchased musical instruments.

As part of a broader effort to combat illegal trade in African elephant ivory, the U.S. Fish and Wildlife Service (USFWS) has ordered sweeping enforcement procedures related to the Endangered Species Act and the African Elephant Conservation Act and is drafting new regulatory limitations. Thousands of musicians use musical instruments containing small amounts of African elephant ivory that were legally



crafted decades ago and legally purchased—not for their ivory content, but for their impeccable sound and artistic value. The new USFWS measures have severe consequences on international and domestic cultural activity.

On February 25, 2014, new strict limits immediately took effect for international travel with instruments that contain African elephant ivory, preventing travel with instruments that were legally purchased after 1973. In response to urgent appeals from the music community, USFWS revised Director's Order 210 on May 15, 2014, saying that noncommercial movement of musical instruments “do(es) not contribute to poaching or illegal trade.” However, the revised Order still prohibits traveling musicians from returning to the United States with instruments legally purchased after February 25, 2014 and heightens implementation of international permit requirements that are nearly impossible to navigate.

USFWS will next issue proposed regulations that will also effectively ban domestic sales of existing, legally crafted instruments that contain African elephant ivory.

The new and forthcoming rules will unfairly render many musical instruments that were legally made, bought, and sold impossible to use internationally, illegal to resell, and effectively valueless in their existing condition. The majority of these instruments are irreplaceable culturally and artistically, and they are essential to a musician's sound. Ivory has generally not been used for decades to create new musical instruments. USFWS has not explained how the commercial sale of existing musical instruments contributes to elephant poaching and the illegal trafficking in ivory.

The music community is fully committed to the goals of wildlife conservation and combatting illegal trade in ivory and other protected species. We are asking the Administration to use its regulatory authority and enforcement discretion to craft a reasonable solution that protects the domestic and international use of musicians' tools of their trade, and preserves historical and legally made instruments now and for future generations to come.

Alternate ROOTS	National Alliance for Musical Theatre
American Federation of Musicians of the United States and Canada	National Association of Music Merchants
American Federation of Violin and Bow Makers	National Performance Network
Association of Performing Arts Presenters	OPERA America
Chamber Music America	Performing Arts Alliance
Dance/USA	The Recording Academy
Fractured Atlas	Theatre Communications Group
International Conference of Symphony and Opera Musicians (ICSOM)	Violin Society of America
League of American Orchestras	

#### **Facts about Ivory in Musical Instruments**

Many musicians perform with instruments crafted decades, and even centuries, ago that contain small amounts of African elephant ivory. Most frequently found in bows and acoustic guitars, ivory may also be found in other string instruments, wind instruments, keyboards, brass, and certain percussion instruments.

There is today no market for unworked or raw African elephant ivory within the musical community. Bow makers and other artisans stopped using elephant ivory decades ago. The trade and use of musical instruments is not a source of illegal trafficking in elephant ivory.

The use and re-sale of instruments does not increase demand for ivory products or drive ivory value. Instruments are not purchased for their ivory content, but rather for their impeccable overall quality and tonal attributes that enable their owners to perform to their very best abilities. Unlike many other commodities, musical instruments are hand crafted and unique; no two are exactly alike in the way that they feel and sound. This helps account for their high cultural and historical value.

Ivory material is not easily replaced without risk of irreparable damage to the instruments. Attempts at re-tipping bows, for instance, can result in the loss of historical bow wood and the bow's unique balance and artistic quality. The art and tra-

dition of instrument making, part of our cultural heritage, will be undermined if antique and pre-act ivory are removed from bow tips and guitars in a blanket and indiscriminate manner to comply with the new and forthcoming rules. The preservation of these historical instruments is essential to the study of the art of crafting instruments, now and in the future.

These instruments are essential tools of the trade. Because instruments are hand-crafted and uniquely matched to the performance needs of musicians, they are very often quite expensive and represent substantial personal investments for musicians. Most musicians do not have suitable substitute instruments for use in place of instruments that contain ivory.

The use, preservation, and sale of instruments are inextricably bound. The vast majority of musicians, artisans, and dealers are individuals or small businesses. Museums, institutions, and other collectors, public and private, will no longer be able to acquire instruments, impoverishing U.S. collections, which culturally enrich the public. All depend on the ability to transfer instruments. If instruments cannot be sold, music as we know it will not survive and musical collections, which provide the basis for learning, will be frozen in place.

#### **Facts about Travel with Instruments**

Under the original February 25, 2014 Director's Order 210 [Administrative Actions to Strengthen U.S. Trade Controls for Elephant Ivory, Rhinoceros Horn, and Parts and Products of Other Species Listed Under the Endangered Species Act (ESA)], instruments containing African elephant ivory were not allowed to enter the U.S. if the instruments had been purchased after February 26, 1976. In response to urgent appeals from the music community, USFWS amended Director's Order 210 on May 5, 2014 to slightly ease the restrictions on musical instruments.

Under the latest version of the rules, a musical instrument that contains African elephant ivory may only be brought into the U.S. if the instrument meets all of the following criteria: the African elephant ivory contained in the instrument was legally acquired prior to February 26, 1976; the instrument has not subsequently been transferred from one person to another person for financial gain or profit since February 25, 2014; the person or group traveling with the instrument qualifies for a CITES (the Convention on International Trade in Endangered Species of Wild Fauna and Flora) musical instrument certificate; and the musical instrument containing African elephant ivory is accompanied by a valid CITES musical instrument certificate or an equivalent CITES document. These limitations apply to musical instruments that contain either antique or newer ivory.

While widening the scope of instruments eligible for travel across U.S. borders is a step in the right direction, many serious questions and concerns remain. It is unclear at this time what documentation will be sufficient to prove that an instrument was purchased prior to February 25, 2014 or that the ivory in the instrument was acquired prior to February 26, 1976. Instruments legally purchased after early 2014 that contain African elephant ivory will be banned from entering the U.S., even if the instruments are entering the U.S. purely for personal or professional use.

A reliable system has not been built for obtaining CITES passports and navigating complicated enforcement procedures at U.S. ports of entry and departure, and across the globe. The costs, uncertainty, and risks associated with attempting to travel with permits are a barrier to international cultural activity. While rules the requiring permits for travel with instruments have existed for nearly 40 years, they have never been widely implemented, and a complete structure has not been put into place to facilitate compliance.

The permit process, customs enforcement procedures, and rules for compliance with the ban are opaque and incomplete, creating a high risk of erroneous seizure and forfeiture of musical instruments. African elephant ivory used in older instruments can be very difficult to distinguish from mammoth or non-endangered ivory types. The CITES musical instrument passport concept is new and the permit procedures are not yet fully developed. Only nine U.S. ports are available for travel with instruments that contain ivory and protected wood species. The use of U.S. permits in foreign countries is untested. Innocent mistakes at Customs will result in the disproportionate penalty of forfeiture. Immediate solutions are needed to avoid erroneous, potentially destructive, and professionally crippling seizures of instruments.

These travel limitations put the livelihood and international reputation of musicians at risk. International artists perform for U.S. audiences, U.S. musicians tour internationally to perform across the globe, and individual amateur and professional musicians frequently travel abroad to perform as soloists and smaller ensemble members. International performances have been planned years and months in advance of the new travel rules. It is simply impossible for musicians to fulfill their engagements without their instruments.

Current and emerging rules related to travel with instruments that contain endangered species material are not clearly or effectively communicated by U.S. authorities to the vastly diverse communities of U.S. and foreign artists that travel across borders. There is no one-stop federal resource to communicate new orders and rules, leaving musicians not institutionally connected at risk of becoming unfairly ensnared in customs enforcement. Tens of thousands of musicians with unique cultural backgrounds residing in the United States, and those who live in diverse American communities and perform as professional and semiprofessional musicians, run a great risk of never hearing about new rules. The unmet need for mass communication and distribution of new rules, along with instructions particularly in non-English languages, presents a particular threat to artists in these diverse communities.

Instrument and bow makers who travel internationally with instruments simply to exhibit them or for educational purposes, and without intention to sell them, could find their instruments and bows subject to seizure simply because they otherwise engage in commercial activity by profession.

If musical instruments are confiscated and/or destroyed, significant financial hardship may ensue. Such seizures could very well spell the end of employment and make it impossible for musicians to participate in opportunities within artistic cultural centers, clubs, and educational training organizations.

Conservation goals will be better supported by focusing U.S. enforcement resources on the root of the elephant ivory trafficking problem, not on legal international cultural activity undertaken by musicians. Members of the Advisory Council on Wildlife Trafficking publicly stated on March 20, 2014 their intent to focus on the “bad guys” fueling and fulfilling demand for new ivory products. Musicians, bow makers and restorers, and institutions and private collectors of historical and legally made bows are not contributing in any way to increased demand for illegally traded ivory.

#### **Facts about the Production, Sale, and Re-Sale of Instruments Containing Ivory**

The music community is not seeking to craft new instruments using African elephant ivory. After the 1976 CITES listing of African elephant ivory, and the 1989 implementation of the African Elephant Conservation Act, U.S. bow makers and restorers, guitar makers, and piano manufacturers in the United States stopped using elephant ivory and turned to mammoth ivory and other non-endangered material as a plentiful substitute.

These instruments were legally crafted decades ago. Until the CITES listing of African elephant ivory in 1976, hundreds of thousands of handmade bows, acoustic guitars, and other instruments produced over many decades, and even centuries, were made with small amounts of ivory. For example, violin bows often contain a thin ivory tip, with dimensions of approximately .6 millimeters x 10 millimeters x 23 millimeters. An average bow tip weighed .2–.25 grams and required 1 gram of unfinished ivory. In 1970, when trade in elephant ivory was legal, an average elephant tusk weighed 26 pounds, meaning that ivory from one elephant could have produced over 23,000 bow tips. The head of the bow was designed around the physical properties of the ivory tip, which gives the delicate bow head protection, strength, and proper balance. Many acoustic guitars used small amounts of ivory as saddles or nuts, typically amounting to no more than 1 percent of the instrument's weight.

Existing instruments that were legally crafted, sold, and purchased should remain in use. Although elephant ivory has not been used in the making of new instruments in decades, tens of thousands of instruments containing small amounts of elephant ivory are today being played and carried throughout the United States and the world by professional, amateur, and student musicians. These instruments should be available to future generations of musicians as well as instrument makers, who look to historical examples as essential educational references for their work.

It will be extremely difficult for many vintage instruments to be designated as antiques eligible for an exemption under the proposed rules. In order to qualify as an antique eligible for import, export, and interstate sale, an instrument must not only be 100 years old, but must have entered the U.S. via one of 13 authorized ports, even though such designated ports did not exist until 1982. Even if the port-entry requirement is relaxed in the proposed regulations, other problems remain. Instruments that have been repaired or modified with any endangered species since 1973 are also not eligible for designation as antiques. Otherwise qualifying antiques also will not be eligible for exemption if purchased after February 25, 1976. Non-antique

vintage instruments would be banned from import and domestic sale under the USFWS proposal.

*July 2014*

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PREPARED STATEMENT OF SOTHEBY'S, INC.

Mr. Chairman and members of the subcommittee, we appreciate the opportunity to submit testimony for the record of the Oversight Hearing on U.S. Fish and Wildlife Service Plans to Implement a Ban on Commercial Trade in Elephant Ivory.

Sotheby's has been uniting collectors with world-class works of art since 1744. We are the oldest company listed on the New York Stock Exchange (NYSE) and committed to conducting our business with the highest level of integrity and transparency and to supporting an ethical art market. Sotheby's was the first participant in the art market to establish a global Compliance & Business Integrity Department, which oversees the development and maintenance of programs and policies designed to facilitate Sotheby's ongoing compliance with all applicable laws, rules and regulations governing our worldwide operations, including those related to endangered species.

Sotheby's deplores the illegal slaughter of elephants and other endangered wildlife and has long supported various conservation organizations. For example, Sotheby's CEO hosted the premiere screening of The National Geographic Special, "Battle for the Elephants," and we have played a significant role in The Big Egg Hunt events in both London and New York, which benefited an organization dedicated to protecting Asian elephants. We strongly support conservation efforts, including further restrictions on the illegal trade in objects made with illegally sourced ivory. We support the President's initiative to end wildlife trafficking to curb poaching of elephants and stand ready to assist with policy education. We support efforts to ensure that only reputable, transparent and responsible sellers are allowed to sell ivory objects, efforts to increase scrutiny of individual objects being offered and increased penalties for those who illegally sell ivory. However, we are concerned that the U.S. Fish and Wildlife Director's Order 210 could eliminate the sale and import of antique ivory, which would negatively impact the art market across the country including Sotheby's, museums and other art purchasers.

There are long-existing Federal and State laws that contain significant restrictions on the importation, exportation and sale of ivory. Compliance with these laws requires multiple layers of licensing and substantial background research in order to determine whether the ivory may legally enter the United States and/or whether it may be legally sold. Auction houses like Sotheby's are noted for the quality and thoroughness of the information we provide to determine the legitimacy of the ivory we seek to sell. It is this track record and transparency of auction houses and other compliant actors that ensures that only legitimate antiques remain in commerce, in the hands of private collectors, museums, and the public at large. We cannot understate the cultural value and education that antiques provide society and we urge the U.S. Fish & Wildlife Service ("USFWS") to produce a predictable, common-sense regulatory regime that will ensure generations of Americans can enjoy antiques from all regions of the world. Specifically, we fear that Order 210's prohibition of antique imports with ivory serves no policy purpose and worse impedes the United States' ability to lead by example with a rigorous commercial standard for cultural objects containing wildlife. Furthermore, isolating the United States from cultural treasures based on present day atrocities does nothing to remedy the problem. We urge the President and stand by him to educate the world on the importance of protecting today's wildlife, but banning antique sales does not accomplish our shared objective.

There has long been a statutory exemption in the United States Endangered Species Act ("ESA") to allow the import, export and sale of antique items containing endangered material, i.e. those over 100 years old. There is an economically significant and important trade in antique art and artifacts (including furniture, sculpture, cultural objects and musical instruments) that were legally created more than 100 years ago that have been collected, exhibited and traded throughout history. The exemption is important to museums, art collectors, and legitimate art market participants, and is in the public interest. Museums, for example, need to retain the ability to acquire and/or transfer art work, created long ago, that contains endangered material so they may refresh and curate their collections; similarly, individuals who legally collected or inherited artifacts made long ago with plant and animal material should not be deprived of the highly regulated legitimate market-

place that currently exists, and which facilitates movement of art to and from public and private collections.

Director's Order 210, dated February 25, 2014 implemented several new enforcement policies that could effectively eliminate the antique exemption in the ESA and not allow the sale or import of antique ivory in the United States. For example, the Order re-interpreted the definition of "antique" to require that the piece had been imported through designated ports after such ports were designated in 1982. After hearing from the antiques trade and other interested parties, USFWS conceded that the new requirements were unworkable and issued an Amended Director's Order on May 15, 2014. That Amendment removes the import requirement for items that are already in the United States. We applaud the USFWS for being responsive, however other concerns remain.

First, although the amended Director's Order appears to take steps toward allowing the continued market for antique items containing ivory, the language of the Order and associated documents is vague and thus leaves room for wide latitude in how USFWS will enforce it and future regulations. For example, between February and May (the issuance of the first and amended Director's Orders), although the sale and export of antique African elephant ivory was legally permitted, the USFWS effectively blocked it by requiring proof as to the type of ivory that was impossible to obtain. As Director Ashe continues to refer to their desire for a "near total ban" on the trade of ivory, it remains to be seen what type of substantiation the Service will require to prove the age of an object or the species it contains.

Second, the Director's Order changes the requirements for establishing the age of property containing endangered material, calling into question whether USFWS will accept affidavits from Sotheby's specialists—some of the foremost in their respective fields. By requiring that a qualified appraisal be given by a person who is not an employee of "any business that is a party to the transaction," the Director's Order appears to say that USFWS will not accept the expert opinions of Sotheby's highly skilled specialists concerning the age of the objects consigned to Sotheby's for sale simply because Sotheby's is involved in the transaction. While "independent" experts make sense in some contexts, it makes no sense here, as there is no one better placed to make this expert determination than the very people with extensive commercial experience, knowledge and expertise with the particular property—whether furniture, silver, musical instruments or American revolutionary items. Moreover, Sotheby's and our specialists' interests in correctly identifying the age of an object are perfectly aligned with USFWS's interest in doing the same. If an object is not an antique as determined by a Sotheby's specialist, it is effectively a modern reproduction. Since Sotheby's guarantees the objects that we sell, any mistake as to the age of an object could have serious financial and reputational repercussions. Thus, we urge the Director to focus efforts on vetting the *qualifications* and *integrity* of the experts and not on their independence, given that it is not realistic to require experienced sellers and buyers to obtain appraisals from their competitors. We also note that opining as to the age of an object is different from identifying the plant or animal material. Sotheby's typically relies on outside animal specialists with appropriate training and expertise in species identification to identify the animal material. The regulation should require the right expert to make the various identifications and age determinations, and Director's Order 210 does not do so.

Third, Director's Order 210 bans commercial imports of items containing African elephant ivory, regardless of their age. We are not aware of any documented or substantiated connection between the trade in antiques crafted with ivory *before* it was protected and present day poaching and illegal trafficking. In contrast, it is certain that banning the import of antique objects crafted with ivory will bring real, measurable harm to U.S. collectors and institutions. Since there is a clear and statutorily mandated exception for antique items, that exception should apply also to the import of such objects when done according to law.

Finally, there were many important objects, including highly designed, artistic furniture (such as pieces created at Emile-Jacques Ruhlmann), created in the 1920s–1940s using African elephant ivory legally acquired well before the elephants were protected under CITES and the ESA. The trade in such objects has long been permitted under the Special Rules for African elephant ivory. However, the new documents issued by the USFWS reflect their intent to amend the Special Rule to eliminate the ability to trade in these very old and important objects.

The USFWS proposal produces significant unintended consequences and criminalizes important cultural commerce activities that benefit many audiences. We urge this committee to ensure that the antique exemption be preserved and to exercise careful oversight of the Director's Order and the upcoming regulatory process related to ivory policies.

## PREPARED STATEMENT OF LINDA KARST STONE, KERRVILLE, TEXAS

My name is Linda Karst Stone. I am proud to be an American Scrimshaw artist, self-employed for over 37 years, pay my taxes, vote and earning a living. I love my work. I have never hunted an elephant and the one thing that everyone here can agree on is that the magnificent elephants need to be protected. I owe my very livelihood to the ivory producing animals of our planet.

I have worked with ivory all my life, most of it recycled. I do not expect everyone to like what I do but I also represent 37 years of collectors who found what I create worthy of their investments. Not one piece would have the paperwork this ban would require, changing my life's work into worthless objects. I was not lazy in keeping paperwork or giving it. None was required which is why the USFWS plans to shift the burden of proof onto the seller. They know none exists and that enforcement would be overwhelming so they intimidate lawful collectors with the RICO, travel and LACY acts, wire taps and Felony charges.

Some believe all ivory is blood ivory. That is a lie. Poachers are talking over because some people oppose a legal ivory market that would take away the poachers incentive and the terrorist's money. If legal ivory was available it would find a market. We are handing out billions of dollars to impose our views onto Africa. We are giving charity to governments that does not reach its target. We all know this is complicated, over 35 range countries, some of them that cannot even protect their children and are not concerned with poachers. Others have more elephants than the land can support.

This law:

- Is an Overwhelming "taking" of legal personal property, without just compensation protected by the constitution with a stated mission to send a message to poachers who will not care
- Ignores the supreme court 1st amendment protecting "viewpoint Neutrality"
- Reverses the long standing premise of American law that we are "innocent until proven guilty"
- Unlawfully rules over intrastate commerce
- Arrogantly forces our views onto Africa without their input and over their objections
- Creates an impossible enforcement issue that will affect millions of dollars of taxable income
- Spends tax dollars for an advertising campaign to make ivory owners so unpopular that they will turn in their valuable heirlooms to an agency that decided to put 6 tons of ivory through a rock crusher. Money that could have raise millions to fight poachers and encourage conservation
- Ignores that fact that elephants do die of old age and that ivory could fund the elephants salvation
- Uses misleading numbers of poached animals as confirmed in the MIKE report, 20,000 not 35,000; [http://www.cites.org/eng/elephant\\_poaching\\_and\\_ivory\\_smuggling\\_figures\\_for\\_2013\\_released](http://www.cites.org/eng/elephant_poaching_and_ivory_smuggling_figures_for_2013_released)
- Ignores current prosecutions made under existing laws that do need to be better enforced
- Bans ivory that has already been banned for import and export for over 25 years
- **Most importantly it will not save one living elephant from being killed in Africa**

There are success stories in Africa like South Africa, Tanzania and Zimbabwe. They have the answers, they live with the elephants. We should listen to them or we will watch them stop investing in the herds and extinction will be eminent. In a TED talk, Conservationist John Kasaona from Namibia explained how they turned poachers into protectors. He said, "Conservation will fail if it doesn't work to improve the life of local communities." The solution lies in their hands. This law would impede all their best efforts.

**Please stop this unworkable assault of American rights.**

RICHARD L. HUBER,  
NEW YORK, NY 10024,  
JUNE 20, 2014.

Hon. JOHN FLEMING, *Chairman,*  
*House Subcommittee on Indian and Alaska Native Affairs,*  
*1324 Longworth House Office Building,*  
*Washington, DC 20515.*

Re: Oversight Hearing on “The U.S. Fish and Wildlife Service’s Plan to Implement a Ban on the Commercial Trade in Elephant Ivory,” June 24, 2014—Comments Submitted for the Record

DEAR CHAIRMAN FLEMING:

I am writing you in reference to the U.S. Fish and Wildlife Service (FWS) Plan to Implement a Ban on Commercial Trade in Elephant Ivory in the United States, contained in Director’s Order 210, dated February 25, 2014, articulated in the meeting of the Advisory Council on Wildlife Trafficking held March 20, 2014 and contained in the revised Director’s Order 210, dated May 15, 2014.

My wife and I are collectors of Iberian Colonial art and have been so for some 40 years. A subset of the objects included in this category is Hispano-Philippine & Indo-Portuguese pieces of ivory religious sculpture. By definition, all are pre-1820 (the effective end of both the Spanish and Portuguese colonial periods). We have frequently lent objects from our collection to leading U.S. museums. The Philadelphia Museum of Art held an exhibition of our collection last year on which a beautiful catalogue was published. Exhibit A attached hereto contains a representative sample of photographs.

We have imported at least a dozen such objects over the last few years. We have always chosen to import them legally and have had much experience with FWS in the process. This has almost always been a painful experience, between obtaining the CITES documents from the designated authority in the exporting country to having virtually every single piece physically examined by an FWS inspector. This frequently includes the retention of brokers or facilitators which obviously makes the whole process more expensive. Indeed, the topic of FWS enforcement is a hot subject for discussion amongst major museum directors, since they all have their own “horror stories” about some 16th century Japanese scroll that happens to have small ivory finials on the scroll rod, or a 15th century Spanish chest with inlays, or a medieval German chest with ivory drawer knobs.

No one I know disputes in the slightest the importance of enforcing the Endangered Species Act. As a matter of fact, my wife and I are strong supporters of the Act; she is a trustee of the Nature Conservancy, my father spent his whole professional career with the U.S. Forest Service and was head of wildlife management for the Forest Service in the Pacific Northwest when I was in high school. But I and many others question the way FWS does the job, particularly in an environment where government at all levels is being encouraged to operate more intelligently and efficiently.

Does the FWS really think that the Metropolitan Museum of Art, or the Brooklyn Museum, or the Philadelphia Museum of Art (we happen to know the directors and many curators at all three institutions), would ever remotely consider violating the Endangered Species Act? To me, this is inconceivable—and a similar level of trust should be afforded to private collectors who have a proven record of legal compliance and commitment to both the protection of endangered species and the preservation of genuine antiques. I am a retired Chairman and CEO of a Fortune 100 company and I am proud of the business reputation that I built over 50 years. As mentioned above, we have imported many objects which have required FWS approval over the years. Perhaps the time of FWS inspectors could be more efficiently employed elsewhere in the vast scope of regulation which the Agency is tasked with enforcing.

To completely ban, de facto, as FWS does, the importation of antique ivory items to “enhance” the enforcement of the Endangered Species Act would be similar to banning driving because a small percentage of drivers get behind the wheel when they are intoxicated. Sure, banning all driving would stop drunk driving, but at a huge cost—and of course would never be contemplated. However, this is exactly what the FWS ban on ivory imports would do.

I believe that we have skilled people in enforcement functions instead of machines so that they can think. It is really not that hard to distinguish between genuine CITES documents and falsified ones; even an untrained eye can certainly distin-

guish a 17th century Indo-Portuguese religious carving from a recently fabricated Chinese ivory trinket. Exhibit B attached hereto shows the obvious differences.

Once again I say mindless bureaucracy! I am of the strong opinion that our government's elephant conservation efforts would be better served by taking much of the budget currently used for domestic enforcement and sending it to Kenya, Tanzania and Uganda to hire more game wardens. More aggressively pursuing the real source of the problem would be considerably more effective than playing valueless games with American citizens who would struggle under the FWS proposed rule to meet documentary requirements that are impossible to comply with.

Let's face it: the United States is an extremely low risk country for violations of the Act. There is no tradition of semi-mystical reverence for ivory or ivory carvings as is the case in China, India and several other Asian countries. These countries are the recipients of the vast majority of smuggled raw ivory, and I doubt if the U.S. represents even 1 percent of the total.

Instead of wasting time, energy and money harassing owners of legitimate antique ivory by imposing impossible documentary demands, I would suggest making all reputable museums self-enforcing agents of the FWS. Simple documents could be filed for each antique export or import, which could be periodically audited by FWS, if that were deemed necessary. I would go further and deputize such institutions to do the same for registered collectors of antique ivory objects.

I would commend to this subcommittee, indeed to Congress itself that the FWS can continue to restrict and prohibit the illegal trade of African elephant ivory in the United States with methods that encourage the cooperation of all reputable actors. Better cooperation among responsible parties will have substantial results—far more so than trying to effect a complete ban on antique cultural articles by criminalizing the trade in the United States with new documentation requirements that are inordinately expensive and impossible to comply with by even the most well-meaning and law-abiding antiques collector.

Sincerely,

RICHARD L. HUBER.



**EXHIBIT A**  
**Three Centuries of Iberian Colonial Art (c. 1500–1800)**









**EXHIBIT B**

Recently fabricated Chinese ivory trinkets: "Terrorists, Tusks and the Ivory Crush"



Photo: US Fish & Wildlife Service

Source: <https://andreww1blog.wordpress.com/tag/ivory-crush/>

CENTER FOR CONSERVATION BIOLOGY,  
UNIVERSITY OF WASHINGTON,  
SEATTLE, WA.

Hon. PETER DEFazio, *Ranking Member,*  
*House Committee on Natural Resources,*  
*Washington, DC 20515.*

DEAR CONGRESSMAN DEFazio:

Thank you for your participation in the House Natural Resources Committee hearing on the African elephant ivory trade held on June 24, 2014.

As you know, the hearing was introduced by first citing a recent report from the Convention on Trade in Endangered Species of Wild Fauna and Flora (CITES) Secretariat on the number of elephants killed last year in the illegal trade. That was followed by a description of a report I prepared for INTERPOL on poaching hot spots across Africa. Given how my INTERPOL report was described at the hearing, I am concerned that its findings were misunderstood and that this misunderstanding could jeopardize acceptance of the report and its recommendations for action. A copy of the report is attached for your information.

The INTERPOL report describes the results and implications of an investigation my laboratory has been conducting since 2004. We use DNA analyses of large seizures ( $\geq 0.5$  tons) of African elephant ivory made in Africa and Asia to determine the locations of the major poaching hot spots in Africa. These analyses can reliably determine the origin of a large seizure to within 300 km (180 mi) of its true origin.

Our work is conducted in collaboration with INTERPOL, the United Nations Office on Drugs and Crime (UNODC), CITES Secretariat, World Customs Organization and World Bank. We also collaborate with United States Fish and Wildlife Service (USFWS) Office of Law Enforcement, and that collaboration recently led to the successful conviction in Togo of the largest ivory dealer in West Africa.

Our findings to date suggest that the majority of large ivory seizures are derived from a fairly small number of locations across Africa. If this pattern persists, it offers an effective strategy to thwart this Transnational Organized Crime (TOC) that is consistent with the UNODC 2010 report: *The globalization of crime: A transnational organized crime threat assessment*. As the UNODC report argues, the elaborate networks that enable TOCs to operate make TOCs particularly difficult to contain. Thus, the most effective way to combat TOCs is to make their networks inoperative. Our project aims to provide the intelligence needed to achieve that by identifying and directing concerted law enforcement efforts to the major poaching hot spots in Africa. We hope that such law enforcement efforts will stop the major flows of ivory from entering these networks and thus choke this illegal trade at its source. This may also be the most effective way to urgently stop the unsustainable slaughter of elephants that continues across Africa.

By definition, major poaching hot spots supply many tons of ivory into the illegal trade repeatedly across years. Such hot spots can only provide that much ivory if they contain many thousands of live elephants and present a relatively low risk of apprehension for poachers. Few remaining places in Africa can still provide that. We believe that is why the same major hot spots keep appearing repeatedly in our analyses, and this also makes them slow to change. These same features are what makes the above mentioned law enforcement strategy feasible. The locations of recent large ivory seizures provide some of the best predictors of areas that continue to experience the heaviest poaching, and the small number of these major hot spots is what makes their containment possible.

I was very proud to hear my report used to introduce the June 24 hearing. However, the following statement gave me concern that its important findings were misunderstood: "Based on a report to INTERPOL by Dr. Samuel Wasser of the University of Washington, who performs the DNA testing on seized ivory, we now know that poachers are killing over 75 percent of all elephants in about three locations in Africa."

My report did indicate that the majority of large ivory seizures *analyzed to date* came from a small number of locations across Africa and recommended that these poaching hot spots be immediately targeted by law enforcement. However, in no way did the report suggest that 75 percent of all elephants were being killed in just 2–3 locations across Africa. To the contrary, the report emphasizes that a primary objective of our ivory tracking program is to analyze a more representative number of ivory seizures so we can be confident that we have identified all current major ivory poaching hot spots in Africa. Once identified, the majority of those hot spots would also need to be targeted to successfully choke this TOC at its source. If all goes as planned, we hope to have all of the current major poaching hot spots identified within the next 12 months.

I am concerned that the apparent misunderstanding of my INTERPOL report at the June 24 congressional hearing, oversimplified one of the few effective strategies to significantly thwart this TOC. While it is vital to target the major poaching hot spots prescribed in that report, those few areas are certainly not the only ones that need to be targeted to stop the slaughter of elephants. Finally, of all the hot spots our analyses have identified to date, the worst hot spot by far is the game reserves in southern Tanzania. I did not hear that point brought out at the hearing, and I wanted to be sure you were aware of it, as it provides strong justification for the USFWS decision to prohibit importations of ivory trophies from that country.

Thank you for your understanding and attention to this matter.

Sincerely,

SAMUEL K. WASSER, PH.D.,  
 Director, Center for Conservation Biology,  
 Professor, Department of Biology,  
 Endowed Chair in Conservation Biology.

Attachment

## **Report to INTERPOL on DNA Assignment of Large Ivory Seizures**

**by Samuel K Wasser, Ph.D., Center for Conservation Biology, University of Washington, Seattle, Washington**

### **Executive Summary**

Since 2005, the Center for Conservation Biology has been collaborating with INTERPOL to identify the major elephant poaching hotspots across Africa. We developed a DNA reference map for forest and savanna elephants across the continent and use this to assign origin to genotyped ivory seizures that constitute large seizures of  $\geq 0.5$  tons. The report clearly identifies two current major hotspots. The most significant hotspot is in SE Tanzania, including the Selous Game Reserve, with recent infusion into Ruaha National Park, along with the adjacent Nyasa Game Reserve in northern Mozambique. The second current hotspot is in the TRIDOM area of Central Africa, especially in NE Gabon and NW Congo-Brazzaville. A third hotspot was also identified in Zambia but no longer appears to be current. Our work continues to search for additional hotspots. However, there is little doubt that the two areas we identified as the most important current hotspots warrant immediate law enforcement action aimed at shutting these areas down.

### **Introduction**

Transnational organized crime (TOC) has placed considerable challenges on law enforcement agencies, partly due to the complexities of the networks that enable them to operate. Over the past decade, wildlife crime has emerged as among the top four or five TOCs, partly due to their high profit margin and low risk of apprehension and/or prosecution. The problem is compounded by wildlife being a relatively non-renewable resource, where losses can be associated with considerable, long-lasting environmental damage. The illegal elephant ivory trade has rapidly escalated in this environment, particularly since 2006. Insurgents have capitalized on this trade to support their operations and line their pockets, further compounding the problem. We may now be losing more than 10 percent of Africa's elephant population annually. Given the key roles that elephants play in the ecosystem, this has created a considerable urgency to stop the killing.

Fortunately, the Center for Conservation Biology, working largely in collaboration with INTERPOL, has developed intelligence-gathering methods aimed at identifying the major African elephant poaching hotspots across Africa, with the ultimate goal of targeting those areas for future law enforcement. This approach may also serve as a model for attacking TOCs in general.

We developed unique genetic methods to determine the origin of large ivory seizures. These origin assignments are accurate to within 260 km of the seizure's actual origin, from anywhere in Africa. At least two lines of evidence strongly suggest that the origin assignments of large ivory seizures ( $\geq 0.5$  tons) are highly reliable predictors of the most significant current poaching hotspots. (1) The vast majority of ivory in single seizures tends to come from the same localized area(s), poached repeatedly over time. Thus, poachers appear to be targeting the same locations to meet their quota. (2) The same locations keep recurring over and over again as the places of origin of major ivory seizures, suggesting that the number of major hotspots may be far more limited than previously thought. This makes sense since, by necessity, hotspots are areas that have enough elephants to supply multiple tons of ivory repeatedly over multiple years, where the risk of apprehension to poachers is also low. Relatively few remaining elephant populations have those characteristics, limiting both the number of hotspots and the speed with which hotspots change over time. These combined features make the origin of large ivory seizures highly predictive of future poaching hotspots, offering a powerful forensic tool for targeting the highest risk areas for future poaching. Properly applied, this information could focus law enforcement on the most significant poaching hotspots across Africa, potentially choking the networks, at their source. This approach could provide a highly efficient, cost-effective way to tackle TOC, simultaneously serving as a model for attacking TOCs in general.

The figures below illustrate these points. They show the origins of 13 large ivory seizures analyzed since the inception of our program, 11 of which were conducted in direct collaboration with INTERPOL. They reveal three major hotspots: The first major hotspot we identified was in Zambia (Figure 1), but may no longer be current. The second and by far the biggest current hotspot is in the Selous Game Reserve



and neighboring parks in SE Tanzania along with the adjacent Nyassa Game Reserve in northern Mozambique (Figures 2–6). The third major and still current hotspot is in Gabon and Congo-Brazzaville, especially in the TRIDOM area in NE Gabon and NW Congo (Figure 7). Results also show how the transit but not the source locations have changed over time.

### Zambia

In 2002, the largest ivory seizure since the 1989 ivory ban was seized in Singapore in a joint operation by INTERPOL, LATF and Zambia and Malawi Wildlife Authorities. The 6.5 ton seizure was shipped from Malawi, transiting Durbin, South Africa before being seized in Singapore. The seizure contained 531 very large tusks and 42,000 hankos. The ivory was sampled by INTERPOL and LATF and sent to our lab for analysis in 2006. The majority of tusks (Figure 1a) and hankos (data not shown) were assigned to Zambia. Documents recovered at the Malawi ivory carving factory where the samples were shipped indicated 19 other shipments with the same *modus operandi* (MO). In 2005, another 6 tons were seized in the Philippines, again with the same MO. However, the tusks were stolen from their storage area before they could be analyzed. In 2006, a joint operation by INTERPOL, LATF and the CITES Secretariat recovered another shipment with the same MO. That shipment was used in a controlled delivery, cut short and seized in Singapore. Our lab determined that those tusks also originated in Zambia (Figure 1b). No subsequent seizures from this area has since been recovered, leading us to speculate that this area no longer constitutes the major poaching hotspot that it was in the past.



Figure 1. DNA assignment results of two large ivory seizures, respectively made in Singapore during 2002 and 2006. Each black circle indicates the median assigned location of a separate tusk in the seizure. The red crosses indicate the respective locations of savanna reference samples using to make the assignments. Since the ivory was initially determined to be from savanna elephants, only savanna elephant reference samples were used to make these assignments. The black arrows represent the transit routes. The curved red arrows point to the assigned origin of the ivory.

### Southern Tanzania/Northern Mozambique

In 2006, Tanzania exported 11 tons of ivory seized within a 1.5 month period. The first two seizures (3 tons and 2.2 tons) were made, one day apart, in Taiwan. The third seizure (2.6 tons) occurred 4 days later in Hong Kong, and the fourth (2.8 tons) ~1 month later in Japan. The first three seizures were all genetically assigned to the Selous Game Reserve in SE Tanzania and the adjacent Nyassa Game Reserve in northern Mozambique (Figure 2). Japan refused to provide their seized ivory for these analyses. However, many of the tusks had Swahili writing on them, also suggesting an East African origin.



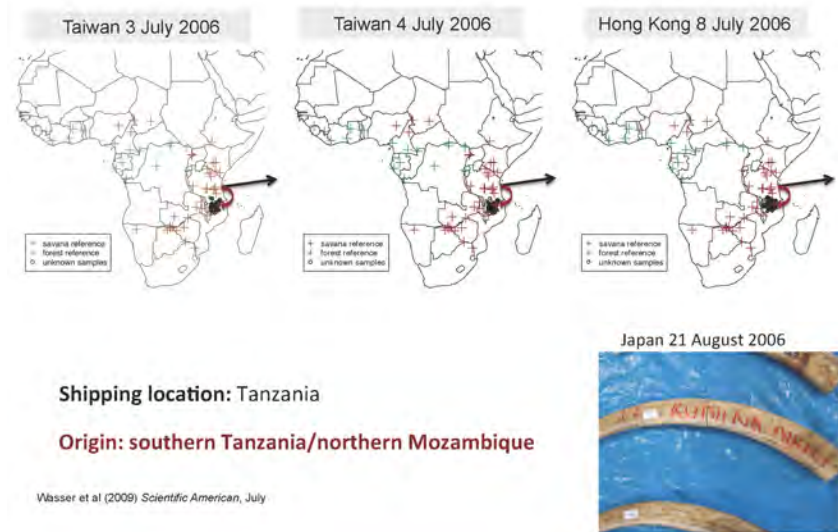
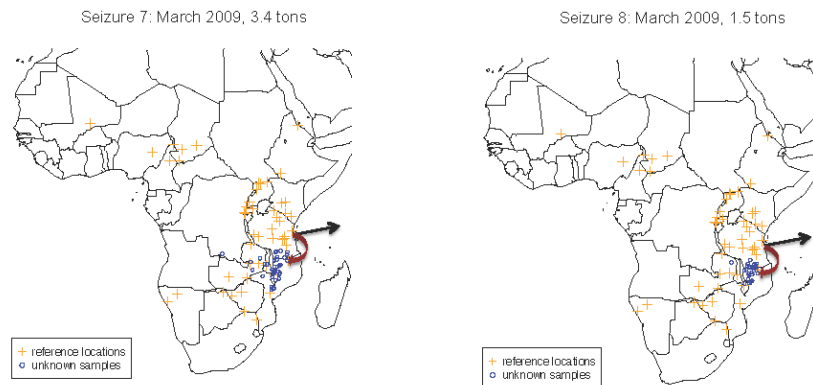


Figure 2. DNA assignment results from three ivory seizures, shipped from Tanzania within a 5-day period in 2006. Each black circle indicates the median assigned location of a separate tusk in the seizure. The orange and green crosses indicate the respective locations of savanna and forest reference samples. The ivory was initially determined to be from savanna elephants. Thus, only savanna elephant reference samples were used to make these assignments. The black arrows represent the transit routes. The curved red arrows point to the assigned origin of the ivory. The picture in the bottom is from a fourth seizure shipped out of Tanzania the following month. We were not given the samples to assign. However, the photo shows Swahili writing on the tusk, further indicating East African origin.

In 2009, Tanzania shipped 14 tons of ivory seized between March and August in Vietnam (9 tons) and the Philippines (5 tons). All of these tusks had similar MOs. We did not acquire those seizures at the time. However, the Philippines recently crushed their ivory stockpiles and provided us samples from these seizures prior to carrying out the crush. Two of these seizures were among the 5 tons seized in 2009. Those seizures were assigned to the Selous Game Reserve in SE Tanzania and the adjacent Nyassa Game Reserve in northern Mozambique (Figure 3).

Two seizures from the Philippines stockpile crush:  
Shipped from Tanzania, March 2009

Same consignee and modus operandi as the 8.9 tons seized in  
Haiphong, Vietnam, March, 2009

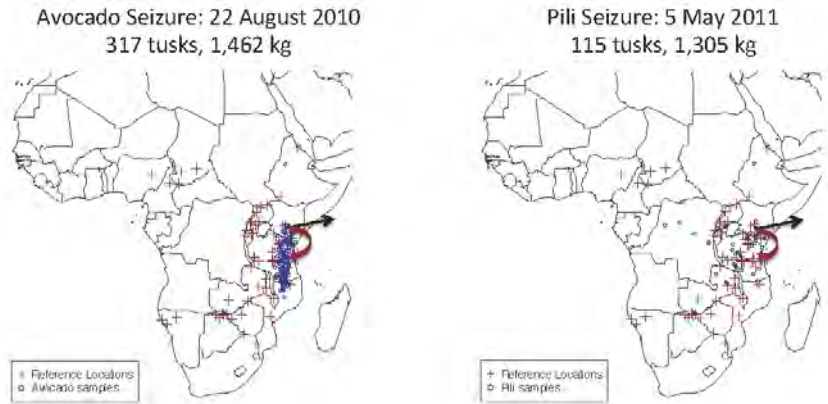


**Shipping location:** Tanzania

**Origin:** southern Tanzania/northern Mozambique

Figure 3. DNA assignment results of two large ivory seizures, respectively made in the Philippines in 2009. Each blue circle indicates the median assigned location of a separate tusk in the seizure. The orange crosses indicate the respective locations of savanna reference samples using to make the assignments. Since the ivory was initially determined to be from savanna elephants, only savanna elephant reference samples were used to make these assignments. The black arrows represent the transit routes. The curved red arrows point to the assigned origin of the ivory.

In August 2010 and May 2011, Kenya made two seizures with similar MOs of 1.5 and 1.3 tons respectively. These two seizures also came from Tanzania (Figure 4, but with two notable differences. They were from widely dispersed, versus highly concentrated areas, across Tanzania, following a pattern more consistent with stockpiled ivory and, for the first time, the Tanzania-derived contraband was transited out of Africa from a country other than Tanzania. Perhaps coincidentally, these seizures occurred just following Tanzania's failed petition to sell their stockpiled ivory at the CITES COP15 (March 2010), when all eyes were on them.



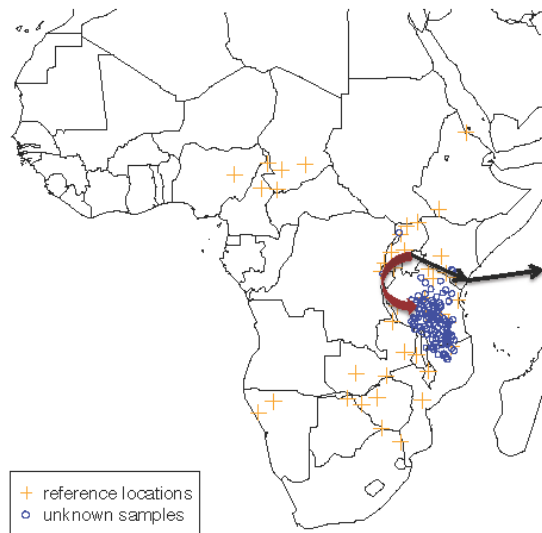
**Shipping location:** Kenya

**Origin:** Widespread across Tanzania

Figure 4. DNA assignment results of two large ivory seizures, respectively made in the Kenya during August 2010 and May 2011. Each blue circle indicates the median assigned location of a separate tusk in the seizure. The red crosses indicate the respective locations of savanna reference samples using to make the assignments. Since the ivory was initially determined to be from savanna elephants, only savanna elephant reference samples were used to make these assignments. The black arrows represent the transit routes. The curved red arrows point to the assigned origin of the ivory.

There has been a lot of recent speculation on militias poaching ivory to support their regimes by trading ivory directly for arms. This was partly fueled by a rapid increase in ivory smuggled from Kampala, Uganda to Mombassa, Kenya prior to being shipped to Asia. Since 2011, 17 tons of ivory was seized in Mombassa after transiting Kampala, with 13.5 tons seized in 2013. Militias in eastern DRC were believed to have been the perpetrators. In May, 2012, 359 tusks were seized in Sri Lanka after transiting Kampala and being shipped out from Mombasa. INTERPOL sent a rapid response team to Sri Lanka to sample those tusks and sent them to our lab for analysis. Once again, the ivory came from the Selous Game Reserve and Ruaha National Park, both in SE Tanzania with some potential spill over into the adjacent Nyassa Game Reserve in northern Mozambique (Figure 5).

Sri Lanka Seizure: May 2012  
359 tusks



**Shipping location: Uganda to Kenya**

**Origin: southern Tanzania**

Figure 5. DNA assignment results of the Sri Lanka ivory seizure, May 2012 (southern Tanzania). Each black circle indicates the median assigned location of a separate tusk in the seizure. The orange crosses indicate the respective locations of savanna reference samples used to make these assignments. Since the ivory was initially determined to be from savanna elephants, only savanna elephant reference samples were used to make these assignments. The black arrows represent the transit routes. The curved red arrows point to the assigned origin of the ivory.

In June 2013, 781 tusks were seized in Malawi, implicating a high level officer from the Tanzania military. This seizure is also alleged to involve the same dealer responsible for the 1.8 tons of ivory seized in the house of a Chinese national in Dar es Salaam in November 2013. INTERPOL worked with NCB in Malawi and Tanzania to sample the Malawi seizure. The tusks varied widely in size, but included some very large samples (>1.6 m in length). The tusks also had four different types of writing on them: 1 = Blue writing, 2 = Green writing, 3 = Red writing, 4 = “777” written in Red.

DNA analyses revealed that all of the tusks were from savanna elephants. The overall assignment of the 65 samples that amplified DNA suggest they were derived from an area spanning SE Tanzania and northern Mozambique, with the largest concentration likely derived from the Selous Game Reserve in Tanzania and the Nyasa Game Reserve in northern Mozambique, and a possible second distribution slightly more north spanning Ruaha National Park/Mikumi National Park/northern Selous Game Reserve (Figure 6).

## Malawi Seizure: June 2013, 781 Tusks

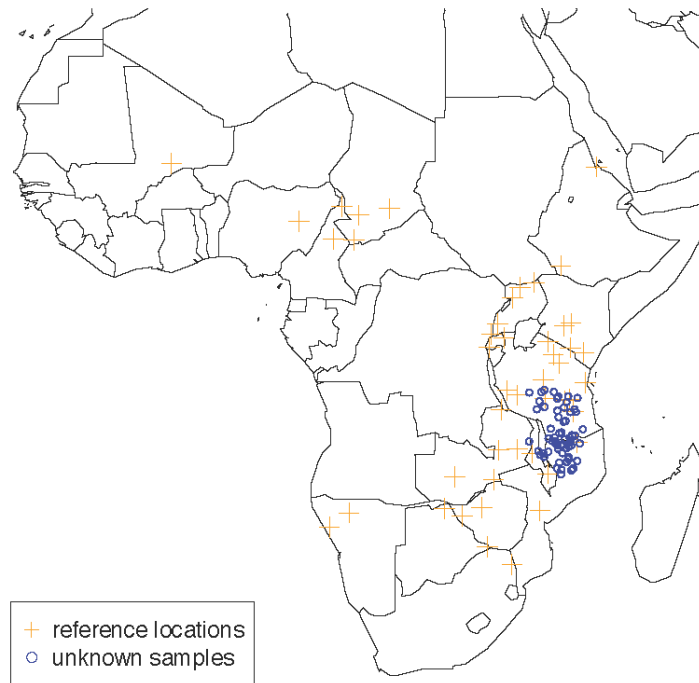


Figure 6. Group assignment of savanna elephant tusks from the June 2013 Malawi seizure. Each tusk assignment in the overall group assignment is indicated by a blue circle. Orange crosses represent the savanna reference samples locations used to make the group assignments.

Separating the analyses into their four separate groups suggested that these groups represent at least three different groups of poachers/dealers (Figure 7A–D). The distribution of poached ivory in groups 1 (blue writing) and 2 (green writing) spanned the entire range where poaching occurred (i.e., were similar in distributions to the overall pattern seen in Figure 6). However, groups 3 (red writing) and 4 (777 written in red) appear to be distinct. Group 3 was more concentrated in the northern part of the overall distribution, on the Tanzania side, whereas group 4 appears to be more concentrated in the southern part of the distribution, on the Mozambique side. The combined results suggest that at least three separate groups of poachers/dealers contributed ivory to this overall seizure.

Based on these seizures, there is no doubt that SE Tanzania is the most significant major poaching hotspot in Africa. The transit locations have progressively moved outside of Tanzania, but the source has remained firmly within Tanzania, bleeding the largest protected area in Africa of its enormous natural elephant population.

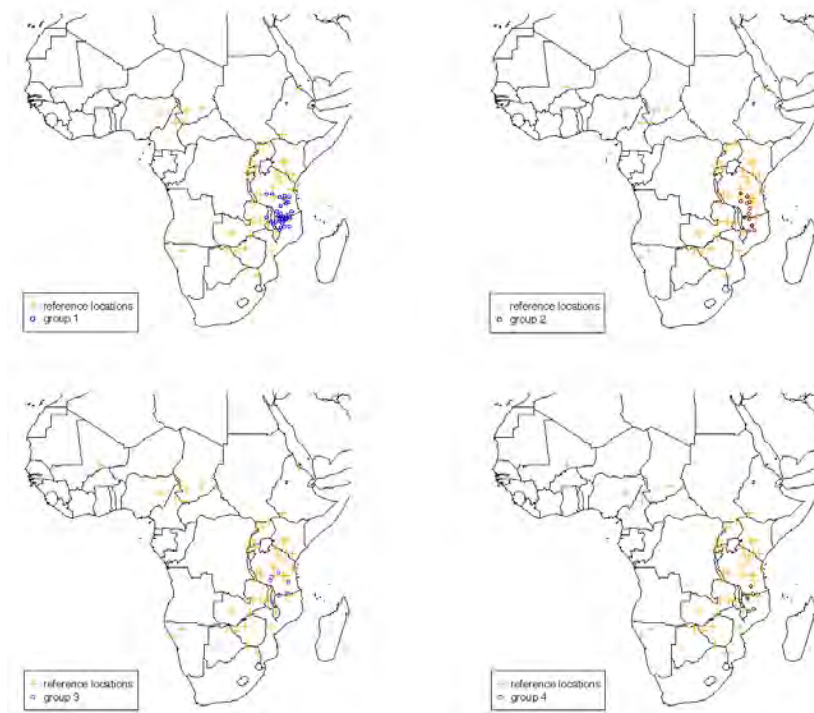


Figure 7. Separate group assignments of savanna elephant tusks from the June 2013 Malawi seizure, based on the color of ink and specific writing on the surface of the tusks: A. Group 1 = blue writing on outside of tusks; B. Group 2 = green writing; C. Group 3 = red writing; D. Group 4 = “777” written in red. Each tusk assignment in the sub-group assignment is indicated by a colored circle. Orange crosses represent the savanna reference samples locations used to make the group assignments.

#### **Gabon/Congo-Brazzaville**

In 2006, a seizure was made in Hong Kong when a container was X-rayed and found to have a false compartment containing 4 tons of ivory. The tusks in this seizure were very large tusks, on average. The container was shipped from Cameroon. However, our analyses assigned the ivory to an area covering central Gabon and Congo-Brazzaville, potentially overlapping the elephant rich TRIDOM area of NE Gabon and NW Congo (Figure 8a). Documents uncovered at the dealers home in Cameroon revealed at least 12 similar shipments, with the same 3 containers returning to Cameroon carrying used tires for resale. The next two returning containers were searched, and found to also have false compartments. Scraps of ivory recovered from the compartments of these two containers were also assigned to the same area as the 4 ton seizure (data not shown).

In July 2103, Hong Kong seized 1,148 tusks, after transiting Togo. Unlike the previous seizure, these tusks were remarkable in that they were all very small in size (1.0–1.5 kg on average), suggesting they came from small elephants. Those tusks were once again assigned to the TRIDOM area of NE Gabon and NW Congo-Brazzaville (Figure 8b), suggesting this area to have undergone considerable poaching pressure over time.

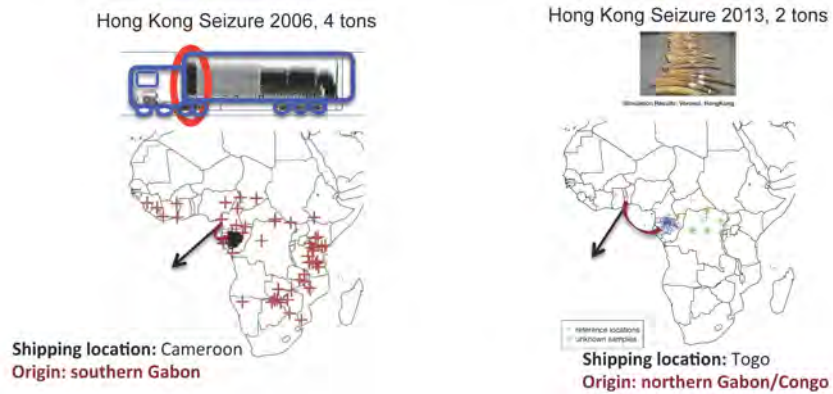


Figure 8. DNA assignment results of two ivory seizures made in Hong Kong during 2006 and 2013. Each black circle indicates the median assigned location of a separate tusk in the seizure. The green crosses indicate the locations of forest reference samples. The ivory was initially determined to be from forest elephants. Thus, only forest elephant reference samples were used to make these assignments. The black arrows represent the transit routes. The curved red arrows point to the assigned origin of the ivory.

On January 22 and 29, 2014, Togo authorities seized nearly 4 tons of ivory in Lome, Togo, en route to Vietnam. INTERPOL sent a rapid response team to Togo to sample the seizures for DNA analyses. The samples were imported into the United States by the USFWS under an “Lo” CITES designation and sent to the Center for Conservation Biology (CCB) for DNA assignment.

When INTERPOL arrived in Togo, the two seizures were already merged with no way to separate them. Since it was suspected that the two seizures were actually part of the same shipment, the January 22 and 29 seizures were treated as one, with a total of 200 samples collected from the entire shipment according to previously established protocols. Of these, 86 samples reached the inclusion criterion of amplifying DNA at 10 or more of the 16 loci examined. Of these, 79 samples were from forest elephants and 7 from savanna elephants.

The forest elephant samples were largely from the TRIDOM area, including NE Gabon, NW Congo-Brazzaville, and SW Cameroon, including also the Dzanga Sanga area of CAR. A few samples in that cluster may also have come from Central DRC. There was also a second cluster of eight samples that had a West African origin, concentrated in the western part of Cote d’Ivoire (Figure 9).

Four of the savanna elephant samples came from SW Chad and perhaps Cameroon, with one additional sample from CAR and two from Tanzania. The two samples from Tanzania are noteworthy because they suggest a potential connection between dealers operating in eastern and western Africa.

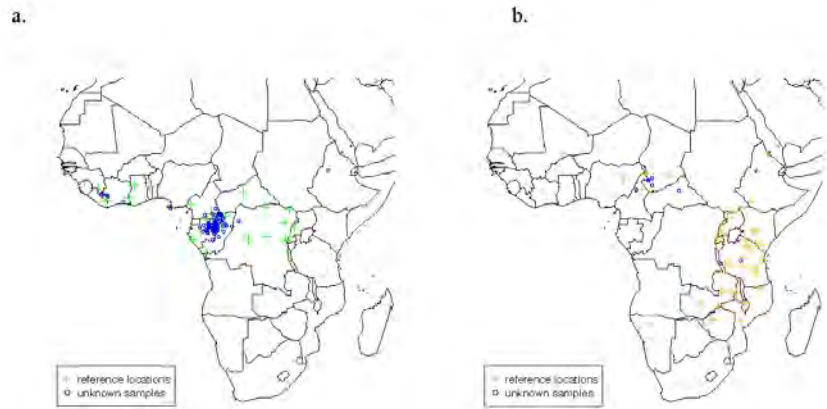


Figure 9. Assignment of: (a) forest and (b) savanna elephant tusks seized in Togo, January 2014. Each blue circle represents the assignment of one forest or savanna elephant tusk. Green and orange crosses respectively represent forest and savanna elephant reference samples used to make the assignments.

The above results suggest the emergence of another major and still current elephant poaching hotspot in Africa, this one involving the last remaining healthy population of forest elephants in the TRIDOM area of Central Africa.

#### Current Plan

Our program had a slow start, obtaining only a small portion of all seizures made between 2006 and 2010. Countries were reluctant to hand over their seizures and the vast majority of the seizures we acquired were at the bequest of INTERPOL. Publication of our results (Wasser et al 2004, 2007, 2008, 2009) and presentations at CITES COPs eventually raised awareness of the value of this method. By COP16 held in Thailand last March, it was clear that the remaining elephants in Africa were being poached at a scale not seen since the ivory ban and this could drive the remaining African elephants to near extinction in the next decade. In response, the parties unanimously passed resolution 16.83, urging all countries making large ivory seizures to rapidly turn them over to an established laboratory for origin assignment. At that same meeting, ICCWC requested our lab to lead the origin assignments and for the first time, we are acquiring large numbers of seizures on a frequent basis. Indeed, we are now positioned to identify all major current poaching hotspots in Africa by mid-2015. We already have firm commitments from the seizing countries to acquire 31 (in orange) of the 39 large ivory seizures documented between 2011 to present. Ten of those seizures (in boxes) have already been sampled and shipped to our lab, eight of which have already been analyzed this year (Table 1).



## Recent Seizures by Country

<b>Kenya</b> 2 December 2011 1.5 ton 21 December 2011 1.9 ton 22 June 2012 0.6 ton 26 January 2013 3.8 ton 26 June 2013 3.3 ton 2 July 2013 1.5 ton 3 October 2013 2.0 ton 8 October 2013 2.9 ton	<b>Hong Kong</b> October 2012 4.0 tons November 2012 239 pieces 15 November, 2012 1.3 ton 20 January 2013 1.3 ton 30 April 2013 113 tusks 18 July, 2013 1148 tusks 7 August 2013 2.0 ton	<b>China</b> October 2012 0.8 ton August 2013 2.0 ton
<b>Tanzania</b> 23 August 2011 1.9 ton 13 October 2013 2.9 ton 3 November 2013 1.8 ton	<b>Sri Lanka</b> May 2012 359 tusks	<b>Dubai</b> 11 November 2012 215 tusks May 2013 259 pieces
<b>Malawi</b> June 2013 781 tusks	<b>Philippines stockpiles</b> 2005-2009	<b>Singapore</b> 30 January 2013 1.8 ton 27 March 2014 1.0 ton
<b>Uganda</b> 18 October 2013 2.0 ton 19 December 2013 1.0 ton	<b>Malaysia</b> December 2011 1.4 ton September 2011 2.0 ton 11 December 2012 6.0 ton	<b>Thailand</b> 23 February 2011 168 tusks 30 March 2011 247 tusks
<b>Togo</b> 9 August 2013 0.7 ton 24 January 2014 1.7 ton 29 January 2014 2.1 ton	<b>Vietnam</b> 4 October 2013 2.1 ton 22 October 2013 2.4 ton	



## Taking Action

We are now working on a plan to make these results actionable, by cooperative law enforcement efforts that target these major hotspots. Our goal is to focus initial actions on the two largest, current hotspots, beginning with southern Tanzania and then the TRIDOM area of NE Gabon/NW Congo-Brazzaville. If successful, this will pave the way to bring down all the major hotspots we hope to identify over the next 12 months, offering the real opportunity to choke this burgeoning transnational crime at its source.

## Supporting Literature

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## 2012 DATA FROM ELEPHANT DATABASE



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All Years for Zimbabwe: 2013 — 2007 — 2002 — 1998 — 1995

## 2012 Summary Totals for Zimbabwe

Data Category	Definite	Probable	Possible	Speculative
Aerial or Ground Total Counts	304	0	0	0
Direct Sample Counts and Reliable Dung Counts	41,840	3,775	3,775	0
Informed Guesses	0	0	0	0
Other Guesses	5,222	0	0	45,375
<b>Totals 2012</b>	<b>47,366</b>	<b>3,775</b>	<b>3,775</b>	<b>45,375</b>
<b>Totals 2007</b>	<b>84,416</b>	<b>7,033</b>	<b>7,367</b>	<b>291</b>

Area of Range Covered by Each Data Category (km<sup>2</sup>)

Data Category	Known Range	Possible Range	Total Range
Aerial or Ground Total Counts	1,283	0	1,283
Direct Sample Counts and Reliable Dung Counts	37,710	0	37,710
Informed Guesses	175	0	175
Other Guesses	36,104	0	36,104
Unassessed Range	1,283	375	1,658
<b>Totals</b>	<b>76,554</b>	<b>375</b>	<b>76,930</b>

## Zimbabwe: Elephant Estimates

Input Zone	Cause of Change <sup>1</sup>	Survey Details <sup>2</sup>			Number of Elephants		Source	PFS <sup>3</sup>	Area Map Location		
		Type	Reliab.	Year	Estimate	95% C.L.			(km <sup>2</sup> )	Lon.	Lat.
+ Binga Communal Lands	-	AS	B	2006	431	373	Dunham et al., 2006a	2	2,217	27.9E	17.4S
+ Bulilana Conservancy	DD	O	E	2001	50	50*	Dunham & Mackie, 2002	2	1,772	29.9E	21.1S
+ Bubli Valley Conservancy	DD	O	E	2001	53		Dunham & Mackie, 2002	1	2,895	30.1E	21.5S
+ Chete Safari Area	-	AS	B	2006	871	310	Dunham et al., 2006a	2	1,260	27.8E	17.4S
+ Chewore 1	RS	AS	B	2010	1,488	468	Kuvawoga & Gandiwa, 2011	2	840	29.9E	16.0S
+ Chewore 3	RS	AS	B	2010	1,974	695	Kuvawoga & Gandiwa, 2011	2	897	29.9E	16.0S
+ Chewore 4	RS	AS	B	2010	226	294	Kuvawoga & Gandiwa, 2011	2	610	29.9E	16.0S
+ Chiredzi River Conservancy	DD	GT	E	2001	28		Dunham & Mackie, 2002	2	895	31.6E	20.8S
+ Chitsa Safari Area	-	AS	B	2006	4,231	1,260	Dunham et al., 2006a	2	1,529	28.3E	17.9S
+ Chizaura National Park	-	AS	B	2006	3,071	1,117	Dunham et al., 2006a	2	2,084	27.9E	17.8S
+ Doma Safari Area	DD	AS	E	2001	336	383	Mackie, 2002a	2	975	30.2E	16.4S
+ Gonarezhou National Park	RS	AS	B	2009	9,123	1,902	Dunham, et al., 2010	1	4,950	32.0E	21.5S
+ Hartley Safari Area	DD	O	E	2001	100	20*	Dunham & Mackie, 2002	2	445	29.6E	17.9S
+ Home Farm & Greystone Ranches	DD	O	E	2001	3	1*	Dunham & Mackie, 2002	3	60	27.9E	20.8S
+ Hwanga National Park	DD	AS	E	2001	44,492	5,770	Dunham & Mackie, 2002	1	12,900	26.5E	19.1S
+ Kariba Communal Areas	-	AS	B	2006	3,715	1,033	Dunham et al., 2006a	1	3,224	28.4E	17.1S
+ Kavira Forest Land	DD	O	E	2001	100		Dunham & Mackie, 2002	2	287	27.0E	18.1S
+ Lusulu	DD	AS	E	2001	33	63	Mackie, 2002b	2	543	27.8E	18.0S
+ Mahenye Ward	DD	AS	E	2001	0	0	Dunham & Mackie, 2002	3	221	32.4E	21.2S
+ Malapal Safari Area	RS	AS	D	2009	0		Dunham, et al., 2010	3	175	32.0E	21.5S
+ Maillangwe Conservancy	DD	AT	E	2001	116		Dunham & Mackie, 2002	2	425	31.9E	21.1S
+ Memba Communal Lands	DD	AT	E	2001	10		Dunham & Mackie, 2002	2	327	28.4E	21.5S
+ Maramani Communal Lands	RS	AT	A	2010	0		Sellor & Page, 2010	2	361	29.3E	22.1S
+ Matabeleland Communal Land	DD	AS	E	2001	64	79	Dunham & Mackie, 2002	1	3,110	27.1E	19.6S

• Mateteti Safari Complex	DD	AS	E	2001	4,201	1,670	Dunham & Mackie, 2002	1	4,389	25.7E	18.2S
• Matibi II Communal Lands	-	AS	E	1998	0		Davies et al., 1998	2	400	31.7E	21.5S
• Matsadona National Park	-	AS	B	2006	1,925	443	Dunham et al., 2006a	2	1,413	28.6E	17.0S
• Mavuradonha Wilderness Area	DD	AS	E	2001	13	26	Dunham & Mackie, 2002	2	617	30.9E	16.5S
• Mukwiche Area	DD	AS	E	2001	228	296	Mackie, 2002a	2	337	29.9E	16.4S
• Ngomo & Sikumil State Forests	DD	AS	E	2001	553	486	Dunham & Mackie, 2002	2	2,344	27.3E	18.8S
• North Gokwe Communal Lands	-	AS	B	2006	192	172	Dunham et al., 2006a	1	3,082	28.6E	17.5S
• Nyatana Wildlife Management Area	DD	O	E	2001	150		Dunham & Mackie, 2002	2	651	32.5E	16.7S
• Protea Farm	DD	O	E	2001	7		Dunham & Mackie, 2002	4	14	29.6E	16.5S
• Rest of Zambezi valley	NA	AS	B	2003	15,870	2,224	Dunham, 2003	1	11,636	30.0E	15.9S
• Save Valley Conservancy	-	AS	B	2003	527	310	Dunham, 2003	1	3,047	32.1E	20.4S
• Sengwe Communal Land	DT	AS	B	2008	23	34	Dunham, et al., 2010	2	1,887	32.0E	21.5S
• Sentinel & Nottingham	RS	AT	A	2010	304		Seller & Page, 2010	2	760	29.3E	22.1S
• Shangani Ranch	DD	O	E	2001	60	20*	Dunham & Mackie, 2002	2	629	29.3E	19.8S
• Sijarira Forest Area	-	AS	B	2006	488	333	Dunham et al., 2006a	3	270	27.5E	17.6S
• Tuli Circle Safari Area	RS	AT	A	2010	0		Seller & Page, 2010	2	500	29.3E	22.1S

### Zimbabwe: Summary

Very few new surveys were conducted in Zimbabwe since 2007, covering a small percentage of the overall population. Half of the estimates included in the current update are now older than 10 years, resulting in an overall degradation of the quality of data from Zimbabwe. This lack of systematic and updated monitoring data is of serious concern for possibly the third largest elephant population in Africa. As a result of the data degradation, the DEFINITE category has seen a drop of 41,536, while the SPECULATIVES have increased by 45,084. Only 8 of the estimates in this update were as a result of repeated surveys, increasing the number of DEFINITE elephants by 3,759.

The 2010 aerial sample count of Chewore Safari Area covered part of the previous valley-wide survey (Zambezi Valley 2003 – Dunham 2004a), as well as repeating the survey of Chewore4 (Mackie 2002a). Chewore 4 replaced the 2001 survey of the same area. Although Chewore 2 had previously been surveyed in a 2001 count (Mackie 2002b), that estimate was not included in the 2007 African Elephant Status Report, and so the 2010 count for Chewore 2 was included in the current analysis as a New Population. Chewore Safari Area (Chewore 1 and Chewore 3) replaced those strata from the 2003 Zambezi Valley count (originally included in the 2007 AESR area Zambezi Valley). The remaining strata of the 2003 Zambezi Valley count were retained as a New Analysis, named Rest of Zambezi Valley.

Aerial total counts of the Nottingham and Sentinel area and the Tuli Circle Safari Area in 2010 replaced the 2001 total counts of those areas. The 2009 aerial sample count of the communal land adjacent to Gonarezhou National Park replaced the 2001 guess for the Sengwe Communal Land. The Malapati Safari Area and Gonarezhou National Park were resurveyed in 2009 using the same methodology and coverage as previous surveys of those areas. The River Ranch-Zhou Dam area, surveyed in 2010 with an aerial total count, replaced the previous estimate for the Maramati Communal Land.

Apart from the areas noted above, there were no other new estimates available for the elephant populations in Zimbabwe.

\* Range of informed guess

<sup>1</sup> Key to Causes of Change (only tracked since 2007): DA: Different Area; DD: Data Degraded; DT: Different Technique; NA: New Analysis; NG: New Guess; NP: New population; PL: Population Lost; RS: Repeat Survey (RS denotes a repeat survey that is not statistically comparable for reasons such as different season); —: No Change

<sup>2</sup> Key to Survey Types: AC: Aerial Count, not specified; AS: Aerial Sample Count; AT: Aerial Total Count; DC: Dung Count; EX: Extrapolation from GIS; GD: Genetic Dung Count; GS: Ground Sample Count; GT: Ground Total Count; IG: Informed Guess; IR: Individual Registration; OG: Other Guess; Survey Type is followed by an indicator of survey quality, ranked from 1 to 3 (best to worst). Survey Reliability is keyed A-E (best to worst) as outlined in this table

<sup>3</sup> PFS: Priority for Future Surveys, ranked from 1 to 5 (highest to lowest). Based on the precision of estimates and the proportion of national range accounted for by the site in question, PFS is a measure of the importance and urgency for future population surveys. All areas of unassessed range have a priority of 1. See Introduction for details on how the PFS is derived.

Note that totals for the Definite, Probable, and Possible categories are derived by pooling the variances of individual estimates, as described at <http://www.elephantdatabase.org/reliability>. As a result, totals do not necessarily match the simple sum of the entries within a given category.

## Elephant Poaching and Ivory Smuggling Figures Released Today

### CITES—PRESS RELEASE—June 16, 2014

*Poaching levels remain alarmingly high at over 20,000. More large ivory seizures in Africa than Asia for the first time*

Geneva, 13 June 2014—Over 20,000 African elephants were poached across the continent in 2013 according to a report released today by the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Although the sharp upward trend in illegal elephant killing observed since the mid-2000s, which had peaked in 2011, is levelling off, poaching levels remain alarmingly high and continue to far exceed the natural elephant population growth rates, resulting in a further decline in elephant populations across Africa.

The report also shows a clear increase in the number of large seizures of ivory (shipments over 500 kg) made in 2013, before the ivory left the African continent. For the first time, the number of such seizures made in Africa exceeded those made in Asia. Just three African countries—Kenya, Tanzania and Uganda—accounted for 80% of those seizures. Large-scale ivory seizures are indicative of transnational organized crime being involved in the illicit ivory trade.

“Africa’s elephants continue to face an immediate threat to their survival from high-levels of poaching for their ivory and with over 20,000 elephants illegally killed last year the situation remains dire. Due to the collective efforts of so many, we also see some encouraging signals, but experience shows that poaching trends can shift dramatically and quickly, especially when transnational organized crime is involved,” said John E. Scanlon, Secretary-General of CITES.

Southern Africa continues to hold the lion’s share of Africa’s elephants, holding close to 55% of the known elephants on the continent. Eastern Africa holds 28% and Central Africa 16%. In West Africa, less than 2% of the continent’s known elephants are spread over 13 countries.

Poverty (measured by infant mortality rates) and weak governance (measured by law enforcement capacity and corruption levels), together with demand for illegal ivory in consuming nations are three key factors linked to higher poaching levels.

Overall poaching numbers were lower in 2013 than in 2012 and 2011—but they continue to exceed 20,000. The report warns that poaching levels will lead to continuing declines in the African elephant population.

The report identifies monitored sites where poaching is increasing (33% of monitored sites), including Dzanga Sangha (Central African Republic), as well as those sites where a decline in poaching has been observed (46%), such as Zakouma National Park (Chad). Some populations of elephants continue to face an immediate threat of local extinction.

The report containing the latest figures (2013) from the CITES Monitoring Illegal Killing in Elephants (MIKE) programme and the Elephant Trade Information System (ETIS) will be discussed at the 65th meeting of the CITES Standing Committee taking place in Geneva from 7 to 11 July 2014.

The monitoring data from the field is unique and it is the most comprehensive global survey of any of the 35,000 CITES-listed species. It is collected by law enforcement patrols and other means, who try to establish the cause of death and other details, every time a carcass is found. CITES then collates and analyses this data thanks to funds provided by the European Union.

Commenting on the scope of the report, Julian Blanc, responsible for the MIKE programme, said: “We are monitoring 30 to 40% of the elephant population, through a peer reviewed process that gives us the best available global estimates on the illegal killing of elephants. We hope to expand this coverage to improve on our estimates. We are supporting countries that do not have the capacity or the funds to monitor MIKE sites and are seeking further support for field rangers.”

In March 2013, based on the findings of ETIS, CITES identified eight countries (Kenya, Tanzania, Uganda, China, Malaysia, The Philippines, Thailand, and Vietnam) as the most heavily implicated in the illegal ivory trade chain as source, transit or destination countries. CITES took decisions at that time requesting all eight countries to develop and implement National Ivory Action Plans to tackle the elephant poaching and smuggling crisis.

These decisions are being translated into a wide-range of actions and initiatives—improved protection in the field, stronger Customs controls, better use of modern technologies and forensics—such as DNA testing and isotopes, strengthened legislation and policies, targeted investigations and more prosecutions, new public awareness campaigns, the destruction of confiscated ivory stockpiles, and the allocation of dedicated funding to combat wildlife crime.

“We are seeing better law enforcement and demand-reduction efforts across multiple countries, as well as greater political and public attention to this unfolding crisis and CITES decisions and compliance processes underpin the global effort,” said Scanlon.

“The momentum generated over the past three years must now translate into deeper and stronger efforts to fight these crimes on the front line, where it is needed most—from the field, to Customs, to illicit markets, and only then can we hope to reverse the devastating poaching trends of the past decade,” added Scanlon.

Several conferences held since CITES Parties met in 2013, including in Gaborone, London and New York, have further contributed to securing high-level political support across all continents.

The CITES Standing Committee next month will assess the eight countries National Ivory Action Plans, and will discuss the next steps to stop illegal ivory trade, including whether additional countries should develop National Ivory Action Plans.

The Committee will also consider the roll out of a wide-range of enforcement-related decisions taken by CITES in March 2013 on other species being pressured by illegal trade, including rhinos, Asian big cats, rosewood, pangolins, freshwater turtles and tortoises, great apes, and snakes, as well as a study of the legal and illegal trade in wild cheetahs.

## **Endangered Species: African Poaching Down and Ivory Seizures Up—Report**

**EE news.net—June 13, 2014**

Poaching of African elephants in 2013 decreased from the previous two years, but some populations are still threatened with local extinction, according to international wildlife regulators.

The Convention on International Trade in Endangered Species of Wild Fauna and Flora reported that more than 20,000 elephants were poached last year, but for the first time, Africa seized more large shipments of smuggled ivory than Asia.

“We are seeing better law enforcement and demand-reduction efforts across multiple countries, as well as greater political and public attention to this unfolding crisis,” said John Scanlon, secretary-general of CITES.

Kenya, Tanzania and Uganda constituted 80 percent of the seizures. The countries are among eight nations that CITES required to create plans to curb ivory smuggling.

Even though total poaching numbers were down on the continent, the practice increased last year in the Central African Republic.

Eastern Africa is home to 28 percent of the continent’s elephants, and the majority—55 percent—live in southern Africa.

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## **Wildlife: GOP Lawmakers, Witnesses Blast FWS Ivory Ban Proposal at House Hearing**

**E&ENews.net**

**June 25, 2014**

**By Dylan Brown, E&E reporter**

With stuffed elephants donated by conservation groups lining lawmakers’ desks, everyone at a House Natural Resources subpanel hearing yesterday agreed that African elephants could be driven to extinction within a decade if something is not done about poaching driven by demand for ivory.

“The plight of the elephants demands our undivided attention,” said Ian Somerhalder, “Vampire Diaries” star and president of his own foundation dedicated to environmental issues, during his testimony.

All present said it is necessary to undermine the illicit ivory trade, which has become a billion-dollar funding source for international crime syndicates, militias and terrorist groups in Africa and Asia, where ivory is seen as a status symbol.

The international side of the equation appeared settled.

Domestic issues, however, especially the Fish and Wildlife Service’s proposed commercial ivory ban, generated disagreement and prompted strong criticisms from Alaska Rep. Don Young (R) and other Republicans.

“For those in the audience who think you’re saving elephants, you’re going to be killing these elephants,” Young said.

The United States remains the second-largest market for ivory in the world, but how much of it is illegal remains unclear, said FWS Associate Director Robert Dreher.

Echoing the concerns of sportsmen, musicians and auction houses worried that the ban, which eliminates commercial imports and restricts exports to all but verified antiques containing ivory, would have a detrimental effect on the value of ivory owned by millions of Americans, Young and other members of his party castigated FWS and lambasted the ban as another federal regulatory overreach, arguing that the ban would unfairly put the burden of proof on American owners to prove their ivory was not the product of poaching.

“Uncle Sam is going to say you have to prove it, you’re guilty because we say you are. That is wrong, and this is not going to save the elephants,” Young said.

With many older instruments containing ivory, National Music Museum stringed instruments curator Arian Sheets testified about musicians’ concerns over the effect

of the ban on older, valuable instruments like ivory-keyed pianos and some guitars. Montana Republican Steve Daines pointed out earlier this month that violin bows belonging to the Budapest Festival Orchestra were seized temporarily at John F. Kennedy International Airport.

According to fellow panelist Matthew Quinn of Quinn's Auction Galleries, museums and auction houses could essentially see the devaluation of great swaths of items—hundreds of millions, he estimated. Many Americans looking to sell grandma's ivory figurine collection would be out of luck.

"Such quick administrative actions . . . will adversely impact millions of unknowing Americans," Quinn said in his written testimony, arguing that the guidelines laid out by the FWS are far too rigorous for cases in which people have little to no documentation of items.

### **Impact of FWS Ban on Hunting**

The ban's effect on hunting also raised Young's hackles.

"There is a value when they can be hunted; there is a value when they can in fact be managed; there is a value when you let a country manage its game," he said.

According to letters obtained by *Greenwire* under the Freedom of Information Act, sportsmen have been in representatives' ears about the restrictions on importing elephant trophies (*Greenwire*, June 23). Elephant hunts that cost upward of \$10,000 in countries like Zimbabwe were stamped out by the ban, Dreher said, due to questionable management practices and weak governance in some African nations.

Republicans touted Zimbabwe, one of the few nations that opposed the 1989 international ivory trade ban, as a model for using hunting revenue and management to benefit impoverished people.

"The simple truth is that if wildlife have no economic value, there is little if any incentive for people who live in that habitat to conserve or save them," said subcommittee Chairman John Fleming (R-La.).

At the hearing, Itai Hilary Tendaupenyu, principal ecologist for the Zimbabwe Parks and Wildlife Management Authority, said the United States failed to notify his government prior to making a decision on the ban. He said hunting revenue is critical to Zimbabwe's economy, with approximately 67 percent of proceeds going to local communities. Furthermore, he said, Zimbabwe's elephant population is actually increasing thanks to hunting.

Democrats asked to see the data, but International Fund for Animal Welfare President Azzedine Downes said the evidence for hunting being a boon for local communities simply doesn't exist.

"It's a great sound bite, but there is no evidence to really back it up," he said. "One person comes and shoots an elephant . . . the money goes to the safari company, to the people who issued the permit, and what does the community get? Literally a carcass."

Downes doesn't buy the argument that the domestic ban isn't necessary, because he says it targets the demand fueling poaching.

"I think people would like people to think that, that it's not going to have any impact. It's not about dry regulations; it's actually about preventing elephants from being killed—demand drives it," he said. "You have a piece of ivory? You have to make a decision: the elephant or this? There are losers, but it's worth it."

Both sides agreed on one other thing: Figuring out the age of ivory is a fool's errand.

Testing requires destroying part of the ivory, and criminals are adept at making new ivory look old.

Allan Thornton, president of the nonprofit Environmental Investigation Agency, who also testified at a Democratic press conference preceding the hearing, said allowing ivory that was harvested pre-ban to be traded gives criminals a loophole large enough to drive a truck through.

Downes agreed: "If someone on the street has to figure out 'Is this piece legal or illegal?' it won't work."

Conservationists applauded the ban as an indication that the United States is taking the lead on the issue. Essentially, Crawford Allan, senior director of TRAFFIC, a partnership between the World Wildlife Fund and the International Union for Conservation of Nature, said it gives the United States the high ground from which to influence other countries.

"Let's not lose sight of the main prize here . . . and the fact that it's like a catalytic knock-on effect around the world," Allan said.

Three hours after it was scheduled to start, the end of the hearing was marked by bipartisan calls to refocus on that main prize: saving elephants.

How that will be done remains to be seen, but while he said he didn't believe FWS's ban would be effective, former Texas Rep. Jack Fields implored his former

colleagues to work together to attack the root of the problem. Fields suggested they hark back to the passage of the original 1989 ban he helped pass.

"We decided that we were going to put collateral issues aside . . . if you're really looking at trying to preserve the elephant population," he said.

## It's All About Saving The Elephants

**Forbes Op-Ed**

**June 23, 2014**

**Guest Post Written By Judith McHale and David J. Hayes**

Doug Bandow recently published an opinion piece in *Forbes* in which he argues that the President is fighting the elephant poaching crisis by targeting U.S. citizens who own ivory. He asserts that the Administration's policy is all about ideological politics, rather than actually "*fight[ing] poaching.*" (Italics in original.) He could not be more wrong.

Contrary to Mr. Bandow's inference, the Administration's anti-poaching strategy is not proceeding on the backs of U.S. citizens and it is all about, in fact, *fighting poaching*. Unmentioned by Mr. Bandow, the President's Executive Order on Combating Wildlife Trafficking, issued last July, and the follow-up National Strategy document issued by his cabinet last February, lays out a comprehensive strategy that takes the fight directly to the poachers and the organized and sophisticated criminal syndicates that are behind them. The threat is an extremely serious one, both because the syndicates are devastating economically and culturally important elephant, rhino and other iconic wildlife populations, but also because this lucrative criminal activity is fueling instability and corruption, and strengthening armed militias and terrorist groups.

Picking on one aspect of a multi-dimensional, comprehensive strategy, Mr. Bandow argues that the U.S. Fish & Wildlife Service is engaged in a misguided and pointless exercise in restricting domestic commercial trade in ivory. He fails to note, however, that U.S. law already restricts commercial trade in ivory. The current restrictions flow from a 1989 U.S. import ban under the African Elephant Conservation Act, followed by a global ban on commercial import and export of ivory established by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in 1990 to protect elephant populations that were under enormous poaching pressure at the time. These actions took hold and worked, shutting down vibrant ivory markets in the U.S. and Europe. Without an easily accessible market, the massive killings of elephants declined precipitously in the early 1990s.

In the last few years, unfortunately, the ban on commercial trade in ivory has deteriorated under the weight of lax enforcement, misguided "one time" sales of national ivory stocks, and other loopholes. Coincidentally, new markets for ivory in China and Southeast Asia have opened up and the world is now experiencing a dangerous spike in wildlife killings and related organized criminal activity.

Because the U.S. remains an important market for ivory—albeit not the largest market—it is appropriate for FWS to clarify what type of commercial trade in ivory is legal, and what is not. FWS is taking steps to remind Americans that U.S. law prohibits commercial imports of ivory and trade in ivory or ivory products that entered the United States illegally. The agency also is seeking to clarify what type of evidence must be provided to satisfy the "burden of proof" that U.S. law puts on individuals who are seeking to sell "antique" and pre-ban ivory products.

Ivory owners in the U.S. can continue to own ivory, of course, and trade it if they can make required showings. We agree with Mr. Bandow that in clarifying the proof needed to establish legality under the law, FWS should adopt a common sense approach that offers law-abiding ivory owners reasonable avenues to obtain required certifications. But the showings must be vigorous enough so as to prevent fraudulent claims by agents of the sophisticated traffickers who are making billions from the sale of ivory from freshly-killed elephants.

As a final point, by taking steps to reconfirm and clarify existing restrictions on commercial trade in ivory, the U.S. strengthens its hand in insisting that China and other Asian nations take similar steps and shut down the rampant illegal trading activity that has infected their domestic ivory markets. If they do not, the U.S. can and should demand that offending nations either get in line, or suffer the con-

sequences of trade sanctions imposed under the authority of U.S. law (the Pelly Amendment) or in concert with other nations, under the CITES treaty.

Ms. McHale is Chair, and Mr. Hayes is Vice-Chair, of the Wildlife Trafficking Advisory Council.

## The Wrong Way to Protect Elephants

The New York Times—Op-Ed Article

By Godfrey Harris and Daniel Stiles—March 26, 2014

The year was 1862. Abraham Lincoln was in the White House. “Taps” was first sounded as a lights-out bugle call. And Steinway & Sons was building its first upright pianos in New York.

The space-saving design would help change the cultural face of America. After the Civil War, many middle-class families installed them in their parlors. The ability to play the piano was thought to be nearly as important to the marriage potential of single ladies as their skill in cooking and sewing, signaling a young woman’s gentility and culture.

The keys on those pianos were all fashioned from the ivory of African elephants. And that is why one of these uprights, the oldest one known to survive, in fact, is stuck in Japan.

The director of the United States Fish and Wildlife Service recently issued an order prohibiting the commercial importation of *all* African elephant ivory into the United States. (Commercial imports had been allowed in some instances, including for certain antiques.)

The Obama administration is also planning to implement additional rules that will prohibit, with narrow exceptions, both the export of African elephant ivory and its unfettered trade within the United States.

The Fish and Wildlife Service has said that these new rules will help stop the slaughter of elephants. But we believe that unless demand for ivory in Asia is reduced—through aggressive education programs there, tougher enforcement against the illegal ivory trade and the creation of a legal raw ivory market—these new American regulations will merely cause the price to balloon and the black market to flourish, pushing up the profit potential of continued poaching.

In short, these new rules proposed by the Fish and Wildlife Service may well end up doing more harm than good to the African elephant.

What these regulations will also do is make the import, export and interstate sale of almost any object with African elephant ivory virtually impossible. Anyone who owns any antique African elephant ivory—whether it is an Edwardian bracelet inherited from a grandmother or an ivory-handled Georgian silver tea set owned by an antiques dealer—will be unable to ship or sell it without unimpeachable documentation that proves it is at least 100 years old, has not been repaired or modified with elephant ivory since 1973, and that it arrived in the United States through one of 13 ports of entry.

The story of the Steinway underscores the complexity, rigidity and absurdity of these rules. The piano was salvaged years ago by Ben Treuhaft, a professional piano technician. When his wife took an academic job in Japan, he shipped the piano along with their other household possessions to Tokyo. They moved to Scotland after the Fukushima nuclear accident three years ago, leaving the piano in storage in Japan to be shipped later. Now Mr. Treuhaft is ready to return the piano to the United States and place it in the hands of a friend who planned to display it at her piano shop.

But the piano remains in Japan. It lacks the paperwork necessary to clear customs in the United States because Mr. Treuhaft failed, when he shipped the piano abroad, to obtain the required export permit identifying the ivory keys and the piano’s provenance. In the past, the government might have exercised some discretion over Mr. Treuhaft’s oversight. But no more. Moreover, to meet the personal-use exception for an import, the piano would have to be shipped back as part of a household move, and he wants to send it to a friend.

So the piano that Steinway says is its oldest known upright is stuck in Japan.

Of course, Mr. Treuhaft is not the only one who is or will be hurt or inconvenienced by this draconian order from the Fish and Wildlife Service, or the new rules that the administration seeks to impose. Musicians already complain of a burden-



some process and months-long delays in securing permits to take their instruments containing ivory abroad. And collectors, gun owners and antiques dealers say they have been blind sided by the proposed rules, which will effectively render their African elephant ivory pieces worthless unless they can meet the extremely difficult standards necessary to sell them.

We suggest a different approach. We should encourage China, where much of the poached ivory ends up, to start a detailed public education campaign that underscores the damage done to elephant populations by the illegal trade in ivory. We also need more aggressive enforcement of anti-poaching efforts in Africa. And we should figure out a way to manage the trade in raw ivory to protect elephants. For instance, several years ago, ivory stockpiles owned by several African countries were sold in a series of United Nations-approved auctions in an effort to undercut illegal ivory trafficking. The proceeds went to elephant conservation efforts. This is a better approach than destroying these stockpiles, as the United States did last fall to six tons of ivory.

Leaving Mr. Treuhaft's piano in Japan will not save African elephants. But it will further endanger them and diminish the lives of those who recognize and value the role of ivory in history and culture.

Godfrey Harris directs the Political Action Network of the International Ivory Society, and Daniel Stiles is a wildlife trade consultant.

A version of this op-ed appears in print on March 27, 2014, on page A31 of the New York edition with the headline: The Wrong Way to Protect Elephants.

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## **Grandma's Cameo Becomes Yard-Sale Contraband How will a government ban on selling or trading antique ivory help save endangered elephants?**

**Wall Street Journal—Op-Ed Article  
By John Leydon, June 23, 2014**

On June 26 countless antiques, musical instruments and other objects made from ivory or decorated with it will be effectively banned by the federal government from sale or trade within the U.S. Coupled with tough new international import-export restrictions, the value of these objects, once in the hundreds of millions of dollars, will evaporate.

The expressed aim of the U.S. Fish and Wildlife Service is to discourage the ivory trade and protect endangered African elephants, though it is difficult to discern how that effort is aided by attacking, say, collectors of Victorian or Art Deco treasures.

To avoid having the ban termed a "blanket prohibition," which would require congressional legislation, the Fish and Wildlife Service has granted a "regulatory exception" that covers a minuscule number of ivory-laden objects that can meet its elaborate requirements. In addition to proving that a particular object is at least 100 years old, its owner must possess official paperwork showing that it was imported to America before 1990, or legally thereafter, and provide unspecified evidence that the object has not been repaired or modified since December 1973. In other words, the bar has been set so high by the Fish and Wildlife Service that very few items will qualify, and then only at great expense and months of research and bureaucratic wrangling.

The message is clear to those who possess ivory-detailed objects including clarinets, canes, pistols, crucifixes, timepieces, chess sets, cameos, guitars, mahjong sets, pianos or furniture: You own it, you're stuck with it. The objects shortly will be worthless and uninsurable by government decree, and the IRS is unlikely to allow you to write it off as an investment loss, no matter how much you or your family paid for it—a few hundred dollars at an estate sale or \$20,000 at Christie's.

The impracticality of monitoring every flea market, auction and estate sale in the country will force the Fish and Wildlife Service to selectively enforce the new regulations. Worse, many buyers and sellers—from hobbyists to professionals—may be unaware that they will be vulnerable to confiscation, fines and arrest for violating the new regulations.

When the Fish and Wildlife Service does step in to prosecute owners and confiscate the ivory goods, it will be doing so in the misguided belief that it is helping to save endangered elephants in Africa by demonizing all ivory, no matter the vintage. As someone who collects ivory-detailed walking canes and who counts himself as a dedicated environmentalist, I think the government is overreaching by creating this new criminal class.

If you see the increasingly common signs saying “Support the Ban,” remember that the new federal rule is not directed against the brutal mercenaries and terrorist organizations whose present-day poaching is endangering the last remaining members of a magnificent African species. The domestic ban is aimed indiscriminately at you or your family or your neighbors, and at heirlooms, collections and investments.

Conservation organizations and lovers of cultural treasures must work together to stop the tragedy unfolding in Africa by supporting forceful interdiction efforts. A first step toward encouraging such a sensible alliance might be for Congress to impose a time-out on the Fish and Wildlife Service, delaying the implementation of its misguided ban and giving thoughtful people who understand its impact, and its folly, more time to weigh in.

The House Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs is scheduled to meet Tuesday to discuss the domestic ivory ban. Let’s hope our elected representatives can bring some sense to the discussion and reverse this new and faulty regulation.

*Mr. Leydon, a retired telecom executive, is a member of the International Society of Cane Collectors and a staunch supporter of international wildlife conservation organizations.*

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## **Obama’s Ivory-Trade Regulatory Overkill— Turning Antique Collectors into Criminals will Boost the Black Market**

**The Washington Times**  
**By Doug Bandow—February 18, 2014**

The Obama administration is preparing to treat virtually every antique collector, dealer and auctioneer in America as a criminal. In the name of saving elephants, the administration is effectively banning the sale of all ivory objects, even if acquired legally decades ago.

Doing so will weaken conservation efforts and enrich those engaged in the illegal ivory trade.

Elephants are being killed in Africa. Under the Convention on the International Trade in Endangered Species of Wild Fauna and Flora, only ivory from before 1989 can be sold. Unfortunately, ivory-sale prohibition has not stopped the slaughter.

The greatest demand for new ivory comes from Asia. Most ivory in America arrived legally, many years ago. The owners followed the rules as they invested hundreds, thousands or tens of thousands of dollars in art objects.

Until now, the rules were simple and sensible. Ivory imported legally—that is, prior to 1989 or after 1989 with convention certification—could be sold. Older ivory usually can be identified by coloring, stains, style, wear, quality, subject and more. Most of the older work simply isn’t replicated today.

Moreover, the burden of proof fell on the government, which had to prove that an individual violated the law to convict him of violating the law. That’s the way America normally handles both criminal and civil offenses.

However, in mid-February the administration issued what amounted to a ban on ivory sales. In practice, virtually every collector, dealer, auctioneer and other person in America is prohibited from selling ivory items—even if acquired legally, owned for decades, and worth hundreds or thousands of dollars.

Every flea market, junk shop, estate sale, antique store, auction showroom and antique show is at risk of raids, confiscations and prosecutions.

First, no imports are allowed, not even of antiques, which before could be brought to America with a convention certificate.

Second, all exports are banned, except antiques (defined as more than a century old) in what the U.S. Fish and Wildlife Service says are “exceptional circumstances.”

At best, the administration is raising the administrative and cost burdens of exporting to countries that already limit ivory imports to items with appropriate documentation. Or the new rule may restrict the sale of items previously allowed, thereby hindering Americans in disposing of their legal collections.

Third, interstate transactions are prohibited, except for antiques. Explains Fish and Wildlife: “Sellers of antiques in interstate commerce must prove through documented evidence that items qualify as bona fide antiques.” Unfortunately, such evidence rarely exists. Thus, the sale of almost all ivory across state lines is effectively banned.

Fourth, intrastate commerce, said the agency, is “prohibited unless seller can demonstrate item was lawfully imported prior to” 1990, when the international ban took effect.

But how does someone “demonstrate” when, say, a gift from his parents was imported? Without such proof, the item is not marketable—even though brought to America legally.

By any standard, the administration rule is grossly unfair to thousands of Americans. Why is the administration penalizing the law-abiding?

The U.S. officials complained about the difficulty in distinguishing ivory imported legally and illegally. No doubt, banning everything eases enforcement, but the policy fails to distinguish between guilt and innocence.

Moreover, much older ivory, given its manifold unique characteristics, is easily distinguishable from new work.

The illegal ivory supply also is small compared with that of legal ivory. Rather than ban the latter in an attempt to limit the former, the government should concentrate resources on aiding African countries in protecting their elephants, better interdicting illegal imports, and identifying sellers who specialize in new ivory.

In fact, targeting owners of legal ivory will perversely undermine such enforcement efforts. Making most ivory in America illegal will vastly expand the ivory black market and dramatically dilute enforcement resources.

Ivory commerce will continue, only more often underground. More objects will privately pass among dealers and collectors, never reaching public view.

The interstate ban, too, will be flouted. Owners also may hand-carry items to other nations without similar restrictions. Moreover, documentation will be faked.

Collectors and dealers will turn to those already participating in the illegal market, helping criminals expand their networks and increase their profits. Finally, overtaxed federal Fish and Wildlife agents may prefer to go after easy targets, such as local antique flea markets, rather than secretive smugglers.

If the administration does not withdraw its rules, Congress should overturn this unfair attack on the law-abiding. Washington should penalize poachers and their seller allies—not collectors and dealers who have followed the rules.

The administration’s new regulations will divert enforcement resources, and push owners of legal ivory into the illegal trade, meaning more elephants are likely to die.

Doug Bandow is a senior fellow at the Cato Institute and a former special assistant to President Reagan.

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[LIST OF DOCUMENTS SUBMITTED FOR THE RECORD RETAINED IN THE  
COMMITTEE’S OFFICIAL FILES]

—Lark Mason Associates, April 2014, “The Scope of the Antique Ivory and Endangered Species Market in the United States”

—Carolina Clavier Collection, “Historical stringed keyboards from the beginning of their construction through the middle of the 19th century”

